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E/CN.4/2002/168
2 April 2002

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COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Agenda item 8

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE

Letter dated 1 April 2002 from the Permanent Observer of Palestine to the United Nations Office at Geneva addressed to the Chairperson of the fifty-eighth session of the Commission on Human Rights

Since 29 March 2002, the cities of Palestine have been subjected to Israeli military invasion with the occupation of Ramallah, Al-Bireh, Qalqilya, Bethlehem and Tulkarem, as a prelude to the occupation of all other Palestinian cities as declared by Israeli officials. This new military invasion was accompanied by mass massacres, acts of cold-blooded killing and multiple executions of Palestinians, as witnessed by the discovery in Ramallah on 30 March 2002 of five Palestinians shot in the head and at least 30 more executed bodies found on 31 March 2002 in Ramallah.

In addition, the Israeli occupation forces are:

Opening fire at every moving person or vehicle;

Destroying houses and stores, looting banks and businesses;

Shooting at ambulances and confiscating others;

Targeting medical teams and preventing them from reaching the wounded, many of whom are left in the streets to bleed to death;

Storming hospitals and preventing the burial of martyrs (who numbered 25 in Ramallah hospital alone today);

Arresting, as is the case each time the Israeli occupation army enters a Palestinian area, hundreds of Palestinian youth and imprisoning them in detention centres without any information on their fate.

We fear that the occupation authorities will be intensifying such crimes after they have today declared Ramallah a closed military zone and ordered the press and media to evacuate the city, in an attempt to hide from world public opinion the crimes they are committing.

This Israeli military invasion of the Palestinian territories has entailed the mobilization of 20,000 military reservists, alongside the regular military forces already in action, meaning that the Israeli invasion is planned for a long period of time and that the Israeli violations of human rights are to continue and intensify, subjecting the Palestinian people to the most brutal and bloody violations of human rights.

In addition to all this, the Israeli military forces have tightened their siege of the Headquarters of President Yasser Arafat in Ramallah, cutting off two days ago water, sanitation, electricity and all means of communication, threatening his health and life and those around him.

Mr. Chairman,

We request you, in your capacity as Chairman of the fifty-eighth session of the Commission on Human Rights, to call upon the Government of Israel to cease its military aggression against the Palestinian cities and to withdraw from them in accordance with the provisions of Security Council resolution 1402. We also hope, in view of the persisting escalation of the situation of human rights in the occupied Palestinian territory, that you and representatives of the Bureau of the fifty-eighth session of the Commission on Human Rights can arrange to travel to occupied Palestine as quickly as possible, to inspect the grave violations of human rights committed by the Israeli occupation forces against the Palestinian people and to brief the Commission on your findings.

We further request that you kindly distribute this letter as soon as possible to the distinguished members of the Commission as an official document of the fifty-eighth session of the Commission on Human Rights under agenda item 8.

(Signed) Nabil RAMLAWI
Ambassador
Permanent Observer

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3 April 2002

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COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Agenda item 17 (b)

PROMOTION AND PROTECTION OF HUMAN RIGHTS: HUMAN RIGHTS DEFENDERS

Letter dated 2 April 2002 from the Permanent Representative of Singapore to the United Nations Office at Geneva addressed to the Chairperson of the fifty-eighth session of the Commission on Human Rights

I have the honour to refer to the report of the Special Representative of the Secretary-General on human rights defenders (E/CN.4/2002/106) which was submitted to the fifty-eighth session of the Commission on Human Rights.

I enclose a letter dated 2 April 2002 which I sent to the Special Representative, and request that the attached letter* be circulated as an official document of the fifty-eighth session of the Commission on Human Rights under item 17 (b).

(Signed): Vanu GOPALA MENON
Ambassador
Permanent Representative

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* Reproduced as received, in English only.

Annex

PERMANENT REPRESENTATIVE
OF THE REPUBLIC OF SINGAPORE
TO THE UNITED NATIONS

Phone: (4122)929 6644
Fax: (4122) 929 6658

2 April 2002

Ms Hina Jilani
Special Representative of the Secretary-General
on Human Rights Defenders
c/o Office of the United Nations High Commissioner
for Human Rights
Palais Wilson
51 rue des Paquis
1201 Geneva

Dear Ms Jilani

I refer to your report on Human Rights Defenders (E/CN.4/2002/106), which was submitted to the 58th Session of the Commission on Human Rights (CHR).

You stated in paragraph 322 of the report that you had requested the Singapore Government to extend an invitation to you to carry out an official visit to Singapore but that you had yet to receive a reply from us.

In August 2001, the Permanent Mission of Singapore to the United Nations in Geneva had contacted the Secretariat of the Office of the High Commissioner for Human Rights (OHCHR) to request for more information on the objectives of your proposed visit to Singapore and the kind of issues that you would like to focus on. We had indicated to the Secretariat that this information would aid our consideration of your request to visit Singapore. The Secretariat indicated in August 2001 that they would prepare a note with details concerning your mission to Singapore. To date, we have yet to receive this note.

Yours sincerely

VANU GOPALA MENON

ICC Building, 29 route de Pre-Bois, PO Box

UNITED NATIONS **E**

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COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Agenda item 11 (b)

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF DISAPPEARANCES AND SUMMARY EXECUTIONS

Letter dated 3 April 2002 from the Permanent Representative of Singapore to the United Nations Office at Geneva addressed to the Chairperson of the fifty-eighth session of the Commission on Human Rights

I have the honour to refer to the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/2002/74) which was submitted to the fifty-eighth session of the Commission on Human Rights.

I enclose a letter dated 3 April 2002, which I sent to the Special Rapporteur, and request that the attached letter* be circulated as an official document of the fifty-eighth session of the Commission on Human Rights under item 11 (b).

(Signed): Vanu GOPALA MENON
Ambassador
Permanent Representative

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* Reproduced as received, in English only.

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Annex

PERMANENT REPRESENTATIVE
OF THE REPUBLIC OF SINGAPORE
TO THE UNITED NATIONS

Phone: (4122)929 6644
Fax: (4122) 929 6658

3 April 2002

Ms Asma Jahangir
UN Special Rapporteur
on Extrajudicial, Summary or Arbitrary Executions
c/o Office of the United Nations High Commissioner
for Human Rights
Palais Wilson
51 rue de Paquis
1201 Geneva

Dear Ms Jahangir

I refer to your report on Extrajudicial, Summary or Arbitrary Executions (E/CN.4/2002/74), which was submitted to the 58th Session of the Commission on Human Rights (CHR). The Singapore Government is concerned with the manner that you had discharged your mandate and would like to make the following comments:

(a) In paragraph 8, you stated that you intervened "where capital punishment is imposed in violation of articles 6.2 and 15 of the International Convenant on Civil and Political Rights and article 37 (a) of the Convention on the Rights of the Child, article 77.5 and other relevant articles of the Geneva Conventions of 1949 and the Additional Protocols thereof of 1977". While this may be part of your mandate, we note that in the various instances where you had written to Singapore, you failed to explain how the cases fell within the competence of your mandate. You gave absolutely no reasons why you had reasons to believe there might be a situation of extrajudicial, summary or arbitrary execution that would justify your interest in these cases.

(b) In paragraph 12, you stated that you "have been selective in sending communications" to governments, basing your "criteria on proper verification of the case, as well as the nature and seriousness of the allegation". Furthermore, in paragraph 97, it was stated that action was taken "in cases of capital punishment in which there is reason to believe that international restrictions" are not respected. If these are indeed the basis of your communications with governments, your enquiries should have been accompanied by evidence to substantiate your claims. However, our

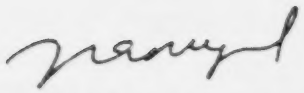
experience shows that instead of first ascertaining the facts, your letters merely contain citations of UN and CHR resolutions, carrying with them insinuations of possible wrongdoing by our judiciary. In doing so, you have betrayed your bias, prejudging the cases, and casting aspersions on the integrity of our judiciary and the judicial safeguards observed by our courts. The Singapore judiciary is highly regarded and internationally recognised for its strong professionalism and integrity. It has consistently been ranked highly in many international surveys. For example, the World Competitiveness Yearbook 2001 had ranked Singapore among the top 15 countries of the world in terms of fairness of administration of justice.

(c) In paragraph 125, you have stated that "the decision by the international community not to include the death penalty in the Rome Statute of the International Criminal Court is noteworthy". Unfortunately, this assertion is only a half-truth. In his statement to the plenary of the Rome Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on 17 July 1998, the President of the Conference declared that the debate at the Conference on the issue of which penalties should be applied by the Court showed that there is no international consensus on the inclusion or non-inclusion of the death penalty, and further that not including the death penalty in the Rome Statute would not in any way have a legal bearing on national legislations and practices with regard to the death penalty, nor should it be considered as influencing, in the development of customary international law or in any other way, the legality of penalties imposed by national systems for serious crimes.

(d) In paragraph 126, under the heading of "Desirability of the abolition of the death penalty", you claimed that there is "an emerging global trend towards limiting the use of capital punishment". You also called upon "all retentionist Governments to impose a moratorium on executions" (paragraph 149). By doing so, you have once again betrayed a clear bias and chosen to gloss over the fact that there is no international consensus for the abolition of capital punishment. This view has been expressed by a significant number of countries over the years. The latest was at the 57th Session of the Commission on Human Rights where 61 countries, including Singapore, submitted a joint letter (E/CN.4/2001/161 and E/CN.4/2001/161 Corr.1) to the Chairman of the 57th CHR to disassociate themselves from CHR resolution 2001/68 on the death penalty. They have outrightly rejected any suggestion to abolish the death penalty.

2 I sincerely hope that the above comments would be taken into consideration in the discharge of your mandate.

Yours sincerely



VANU GOPALA MENON

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UNITED NATIONS **E**

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8 April 2002

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COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Agenda item 10

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Note verbale dated 24 March 2002 from the Permanent Mission of Brazil to the United Nations Office at Geneva addressed to the Chairperson of the fifty-eighth session of the Commission on Human Rights

The Permanent Mission of Brazil to the United Nations Office and other International Organizations in Geneva presents its compliments to Ambassador Krzysztof Jakubowski, Chairman of the fifty-eighth session of the Commission on Human Rights, and has the honour to forward herewith a copy* of the Brazilian Government's written comments on the implementation of Commission resolution 2001/33, entitled "Access to medication in the context of pandemics such as HIV/AIDS".

The Permanent Mission of Brazil would like to request that these written comments be circulated as an official document of the fifty-eighth session of the Commission on Human Rights and to be inserted on the web site of the Office of the High Commissioner for Human Rights accordingly.

* Reproduced as received, in English only.

Introduction

The year 2001 represents a landmark in the fight against the HIV/AIDS epidemic worldwide. For the first time ever the United Nations General Assembly convened a Special Session to deal with, in a comprehensive manner, the disease that has already killed more than 22 million people since it was identified in the early 1980s and currently infects another 36 million in all continents. The voice of the world society, however, is not restricted to the UNGASS on HIV/AIDS, which was held from 25-27 June 2001 in New York. On the contrary, a plurality of documents, resolutions, statements and others have been produced on a year that witnessed the rise of a rich and lively debate on HIV/AIDS, specially in what concerns the capacity of countries to provide their populations with the means necessary to treat those infected and affected by the disease. A wide range of interrelated concerns were also brought up in the international agenda, involving mainly issues of human rights, patents, access to life-saving anti-aids medicines and the World Trade Organization-based Agreement on Trade-Related Intellectual Property Rights (TRIPS). All of this has served to a very important purpose: to create a solid normative as well as reasonable background against which countries can envision and design far-reaching and all-inclusive national responses to the HIV/AIDS epidemic.

Resolution 2001/33, entitled "Access to Medication in the Context of Pandemics such as HIV/AIDS", approved on the 23rd of April 2001 by occasion of the 57th Session of the United Nations Commission for Human Rights, is by far one of the major contributions the international community managed to come up with during the current year in the field of HIV/AIDS. It symbolized a key breakthrough in the apparent and false dichotomy between efforts directed at prevention and those aimed at treatment and care for those already infected. It unveiled a whole territory where governments had been insofar timid to walk in – the duty to provide medicines to all those in need – and helped to unleash the call for action that was later approved unanimously by the UNGASS on HIV/AIDS through its Declaration of Commitment.

Issues Under Consideration

The cornerstone progress of Resolution 2001/33 is the clear and unambiguous acknowledgement of access to medication in the context of pandemics – such as HIV/AIDS – as an integral and primary element of any strategy that seeks to guarantee the enjoyment of everybody's right to the highest attainable standard of physical and mental health, recognized worldwide as a fundamental human right. In other words, it is impossible to protect everyone's right to the highest attainable standard of physical and mental health without public policies that ensure the provision of life-saving medicines to all those in need.

Brazil was a major contributor and sponsor of Resolution 2001/33, not only because of its understanding of the importance of treatment and care in the battle against HIV/AIDS, but also, and mainly, because of its principled commitment to the protection and advancement of the human rights of those people living with HIV/AIDS (PLWA) and because of its comprehension that the deep involvement of PLWAs enhances and maximizes the capacity of the State to play a meaningful role in the overall strategy to halt the AIDS epidemic.

Resolution 2001/33, however, enshrined in its clauses not only normative principles but also pragmatic steps that ought to be taken so as to ensure all pledges in it can be fully met. What

follows is an attempt to inform, in a summarized manner, what Brazil has been doing in this field so as to live up to its vows.

Brazil and Access to Medicines – the HIV/AIDS case

Brazil is one of the few developing countries that provide free and universal distribution of anti-retrovirals to every single HIV+ patient that seeks assistance in the public health system. This policy was started in the early 90s, with the distribution of AZT and was rapidly expanded in the ensuing years. It evolved on a very steady manner until November 1996, when the Congress passed a law making it an obligation of the State to provide anti-aids drugs to the population. In real terms it did not affect much of the policy under implementation, but it strongly boosted the support for and legal stance of the National AIDS policy.

Brazil currently distributes 14 antiretroviral drugs of 3 pharmacological classes to all HIV infected patients that meet the criteria set down by national guidelines, which are designed by expert committees assembled annually to review practices as well as new technical progresses worldwide. Of the aforementioned 14 drugs, eight are locally-produced anti-retroviral formulations, with pharmacological specifications for generic versions of these groups. Approximately one hundred and ten thousand patients are currently under antiretroviral treatment freely distributed through the Brazilian public health system and roughly three hundred million dollars were spent in 2000 alone on purchasing the drugs that make up the so-called 'anti-HIV cocktail'.

Resolution 2001/33 also calls upon countries to assure that the pharmaceutical or medical technologies used to treat HIV/AIDS are scientifically and medically appropriate and of good quality. In Brazil, the quality control of the antiretrovirals distributed by the Ministry of Health is done by: (1) mandatory statement from the competent health authority in the country of manufacture, certifying that the plant complies with the Good Manufacturing Practices (GMP); (2) preliminary inspection of the pharmaceutical plant before the first delivery of the product; (3) monitoring of the production of the first batches; (4) in the early phases of the procurement contract, analysis of batches purchased at laboratories accredited by the National Health Surveillance Agency from the Ministry of Health and (5) bioequivalence testing.

On the long term, however, given the increasing number of patients needing more expensive, complex treatments, such a path of action would prove unsustainable, for it would strip the Government of the adequate funding necessary to keep it on track. Hence, in order to expand the access to antiretroviral therapy on a sustainable manner, it is crucial to look for ways and means of lowering the sky-rocketing high prices of aids drugs. Some strategies have been successfully used by the Brazilian Government to this end. In fact, the price of antiretroviral drugs purchased by the Brazilian Ministry of Health has been declining quite significantly over the last few years. This is mainly thanks to, firstly, investments made by the Ministry of Health to set up national State laboratories and, secondly, effective negotiation of drug prices with those pharmaceutical drug companies that are exclusive producers of certain anti-AIDS drugs. The average cost for patient/year in antiretroviral therapy decreased a full 48% between 1997 and 2001 ($US 4,860 in 1997 to $US 2,530 in 2001).

It is, therefore, apparent that Brazil has measured no efforts in order to ensure the availability in sufficient quantities and at affordable prices of pharmaceuticals and medical technologies used to treat HIV/AIDS. The National STD/AIDS Coordination, the federal-level arm of the Brazilian response, is responsible for harmonizing and organizing the actions of dozens of regional agencies, NGOs and countless field experts, fostering an improved collective approach. It is counseled by several *advisory expert committees*, and public policies are implemented taking into due account the vast number of diverse social realities that reflect and include the most vulnerable sectors of the population. Special preventive actions targeted at women, youths, children, mobile populations, injecting drug users, truck drivers, men who have sex with men etc are commonplace and have been under implementation for some time now. Particular measures to reduce stigma, silence, discrimination and denial of and against people living with HIV/AIDS have also been put into practice and have yielded impressive results.

Resolution 2001/33 further calls upon States to adopt legislation or other measures, in accordance with international law, to safeguard access to such preventive, curative or palliative pharmaceuticals or medical technologies. In fact, there are still around 85 law projects related to the STD/HIV/AIDS issue that are waiting for review and approval at the Brazilian Congress. Matters covered range from care and treatment to education, guarantee of fundamental human, labor and social rights, tax and criminal law, prevention and communication strategies and harm reduction behavioral interventions.

At the international level, Resolution 2001/33 calls upon the international community to continue to assist the developing countries in their fight against pandemics such as HIV/AIDS. Brazil has also been actively working so as to foster and expand access to aids-related medicines in the neediest developing countries, specially in Africa and Latin America and the Caribbean. In this respect, international cooperation projects supported by Brazil seeks to cover three key points: technology transfers for local manufacture and quality control of ARV drugs; training for building infrastructure required for care and treatment; and the creation of an International AIDS Drugs Data Bank. These project include, but are not restricted to, all Portuguese-speaking African countries and dozens of Latin American nations, which make up the so-called Horizontal Technical Cooperation Group, the HTCG.

The Brazilian Government has also been pushing, at the World Trade Organization, a flexible interpretation of the TRIPS Agreement so as to make sure nothing in it prevents Members from taking measures to protect public health, particularly in crisis of a magnitude such as the HIV/AIDS one. It is indeed beyond doubt that such a position is necessary in order to fulfill the pledge, included in Resolution 2001/33, of taking into due account the right of everyone to the enjoyment of the highest attainable standard of physical and mental health in the negotiations under way in international bodies, of which the World Trade Organization is no exception.

Along with this policy, Brazil has also been advocating the principle of differential pricing as a key part of its strategy to widen access to medicines in developing countries. It is based on the assumption that it is unreasonable and impractical for a country with a low GNP per capita to pay the very same high prices charged in developed markets for the very same drugs. Anti-aids cocktails cost in between 10 to 15 thousand dollars in the developed world, what represents more than ten times the annual per capita income of some of the poorest and hardest

HIV-hit nations in Africa. There are a few indicators available to orient the implementation of differential pricing globally, among which the Human Development Index (HDI), from the United Nations Developing Program (UNDP), is a feasible choice.

Nonetheless, the international community must also financially support the acquisition of such drugs even if these are brought down to much more manageable levels. Impoverished countries cannot take upon the task of treating their populations if they are left without the means to do so. A strong, prosperous and resourceful Global Fund to Fight AIDS, Tuberculosis and Malaria is, therefore, a powerful tool in fulfilling the ultimate objective of Resolution 2001/33.

Conclusion

All this has enabled Brazil to slash its aids-related mortality levels by fifty to seventy per cent. Incidence of opportunistic infections was reduced dramatically. The number of tuberculosis cases, for instance, dropped 80% in the last four years, in the State of Sao Paulo, which carries roughly fifty per cent of all aids cases reported in Brazil. Morbidity has also been deeply reduced, by an average of seventy per cent, avoiding two hundred and thirty four thousand hospitalizations, and saving the impressive amount of seven hundred and eleven million dollars.

However, it must be said that access to medicines is but a feature of the Brazilian national response to the HIV/AIDS epidemic. Its success, in fact, lies upon a concerted early governmental response, a strong and effective participation of the civil society, a multisectoral mobilization, and an integrated approach that draws together prevention, treatment and advocacy of human rights in all strategies and actions. It was this blend of aspects that managed to refute the worst predictions of international advisors, which predicted Brazil would have, by the year 2000, approximately 1.2 million HIV+ patients. Nowadays, the estimated number is half of that, around 597,000.

It is clear, therefore, that Brazil has fully implemented Resolution 2001/33. Still, there is an unambiguous agenda for the future in the fight against the epidemic, particularly in the field of vaccine development, but there are strong signals that the epidemic in Brazil has been nearly brought under control, and, most importantly, the quality of life of HIV+ patients has showed a steady trend upwards.

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Fifty-eighth session
Agenda item 3

ORGANIZATION OF WORK

Letter dated 3 April 2002 from the Permanent Representative of Colombia to the United Nations Office at Geneva addressed to the United Nations High Commissioner for Human Rights: reply of the Government of Colombia to the report of the High Commissioner on the human rights situation in Colombia*

I have the honour to enclose herewith, for transmission through you to the Commission on Human Rights at its fifty-eighth session, the document containing the reply of the Government of Colombia to document E/CN.4/2002/17, entitled "Report of the United Nations High Commissioner for Human Rights on the human rights situation in Colombia".

In this connection, we respectfully request that, when the "reply of the Government of Colombia" is included in the documents which the Commission is considering, it should be identified not as the "Note by the Government of Colombia", but with a title that does justice to

* The annex is reproduced as received in the language of submission and in English only.

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its content and its denseness. The appropriate treatment will thus be given to the efforts made by the Colombian Government and State in preparing the document which is being transmitted and which refers to the issues dealt with in your report.

The document in question is also being sent electronically to the units of your Office in charge of processing the documents of the fifty-eighth session of the Commission.

(Signed): Camilo REYES RODRÍGUEZ
Ambassador
Permanent Representative

Annex

Unofficial translation of the letter from Clemencia Forero Urcos, Vice Minister for External Relations of Colombia, dated 26 March 2002, addressed to the United Nations High Commissioner for Human Rights.

The Government of Colombia has had the opportunity to analyse the report, prepared by your Office for the 58th Session of the Commission on Human Rights, with respect to the work of the OHCHR office in Colombia, and transmitted to us by your Excellency on 4 February 2002.

On behalf of my Government, the present letter is accompanied by a document which, on the one hand wishes to establish close and efficient cooperation links between the Office (OHCHR) and the Government of Colombia and on the other provides clarifications and comments which the Government hopes will be taken into account by the Office when it officially transmits the report to the Commission on Human Rights. At the same time the Governments wishes to assure you that all those viable measures and recommendations, to improve our situation, will be adopted by the Government of President Pastrana, in order to contribute to the improvement of the national situation.

Included with the document, which contains the National Government's position with respect to the report, are the comments made by the State Control bodies, that is to say, the "Procuraduria General", the General Prosecutor, and the Ombudsman, entities which have worked with the Government in many of the subjects included in the report of the Office. These organs are independent of the Executive which has exclusive responsibility for political decisions.

Signed: CLEMENCIA FORERO UCROS
Vice Minister for External Relations
of Colombia

1. Presentation

The Government of Colombia thanks the United Nations High Commissioner for Human Rights for her Annual Report on Colombia for 2001, in response to the mandate of her Office in this country, as defined in the Agreement signed between the Colombian Government and the United Nations Organisation.

This document is the opinion of the Government, given in accordance with Chapter V, Section 11 of the Agreement, according to which:

> *"The Government may make comments on the report by the High Commissioner mentioned in the previous paragraph, making all observations which may think relevant, as to content, and may request the High Commissioner to transmit those comments to the Human Rights Commission, without prejudice to the Government's right to address that organ directly, when it considers this necessary".*

Thus, the Government reserves the right to discuss, in the ambit of relations between the State and the High Commissioner's Office[1], the many specific aspects of the report with regard to which there are differences of substance, in some cases and in others differences of form, with regard to focus, interpretation, or considerations of the High Commissioner; these are differences whose discussion will certainly go beyond the purpose of this document which is of a general nature with regard to the analysis, conclusions and recommendations of the Report for 2001.

As a significant and novel aspect compared to previous reports produced by the Office, this report produces a wide-ranging analysis of the way in which armed groups beyond the pale of the law have systematically violated International Humanitarian Law, and these is a decisive advance in the establishment of the origin of violations and the humanitarian situation in Colombia to the extent that the actions mentioned in those reports continue to be committed by these illegal groups.

Indeed, the Colombia Office of the High Commissioner, in stating in the Report that minors are being forcibly recruited, and that there is kidnap for ransom, the blowing up of pipelines and transmission towers, that anti-personnel mines are being used, that attacks are being made on medical missions, that there is forced displacement, that there are assaults on population centres and selective murders, makes it easier to have an objective and impartial view of the armed conflict in Colombia.

Without prejudice to the foregoing, the Government cannot avoid recording but unfortunately despite its repeated and thorough-reaching proposals and analysis with regard to subjects -

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[1] In the framework of the Intersectorial Technical Commission, which since August 2001 has been regularly meeting with the Office, as mentioned in the report in the first chapter "PROGRESS AND DIFFICULTIES IN THE DEVELOPMENT OF THE MANDATE OF THE OFFICE" in which it is stated that "the High Commissioner considers the creation of this opportunity for dialogue and discussion on state policy and actions in matters of human rights and International Humanitarian Law to be of very great value, and must thank the institutions involved in this exercise for their cooperation.

amongst others widely recognised and accepted by the international community and different multilateral political and legal instances- such as the international responsibility of the State for acts committed by armed groups beyond the pale of the law, or tangible advances recorded in structural areas -rather than specific ones- such as the management of the prison situation, or the high level of impunity, the office continues to make value judgements which inexplicably ignore the reality of the facts, and this becomes a discouragement to the efforts which the State as a whole is making to overcome the difficult conditions which the Government has had to face in recent times. These appreciation's are not clear with regard to the commitment of the Government in the search to a political solution to armed conflict, and its attempts to make progress in priority themes of its policy on the subject.

Regarding the former, the Vice-president of Colombia in his speech to the 58 Human Right's Commission on 21 March said the following:

"(...) our country does not face a war or peace dichotomy, as shown superficially by the media. Even if it seems hard to understand, the conflict that surrounds us has not taken over or affected internal unity in our society, and it has not stopped the evolution of our democratic system.

We are not facing a "civil" war where parts of the population are confronted because of political, ethnic or religious beliefs. What we are confronting is a war put together by illegal groups that do not add up to more than 0.1% of the population, against the legitimate State and civil society.

We have a democratic system of long historical tradition that has not been affected by the violence. A few days ago, more than 10 million Colombians voted in free, open and competitive elections to elect our Congress. Nothing stopped this democratic will, not even the threats, or intimidation made by the terrorists against the population. Colombians, once again have proved that we prefer votes from bullets.

It is not right to try to explain the internal conflict of my country by using stereotypes that do not apply there. It is not a rebellion against a dictatorship or an autocratic regime. It is not a minority rebellion because of race or religious oppression. It is not a conflict motivated by separatist reasons. It is the violent aggression against society and democracy by illegal terrorist groups that had ideological roots in their origins, but have lost them because of their relationship with illegal activities of narcotraffickers.
(...)

Colombian State actions will continue to be focused against all illegal groups that under any front or any alleged flag act illegally, victimising civil population and collaborating with narcotraffickers.

We are facing challenges against violence as usually democracies do: using the means granted by the Constitution and the law effectively and ethically and against all forms of violence, without exceptions. And we are doing it as a State of law: respecting fundamental rights and guarantees of all citizens who have entrusted their defence and protection and who have confidence in their institutions and its men and women that represent and defend them.

But the urgent need to resist and repel the actions of the terrorists have not prevented us from working to strengthen the Social and Democratic State of Law in Colombia, comprised of structures and guarantees that allow participation and dissidence. We have an evolving constitutional order, which has led in the last ten years to a transformation of our institutions and an evolution in the recognition and defence of our civil rights and guarantees.
(...)

At the same time, together with the reconciliation efforts, we started a global policy with the co-operation of governmental institutions and the State on human rights and the application of international humanitarian law. We are able to show positive results but the context of violence demands greater efforts and the need of additional resources to face a difficult situation. In order for our task to be more productive, we have received the support of the international community and will continue to request it. Now more than ever your solidarity with us is going to be vital in facing this aggression from the terrorist where the civil population and their assets are their main victims.

We continue working to incorporate several international documents into our internal legislation as well that will allow us to make some progress in strengthening our institutions, and at the same time address the recommendations from the international community. Therefore, we have added to our penal dispositions the crimes of kidnapping, genocide and forced displacement as well as a new definition for the torture of perceived crime. At the same time, we have included in the new penal legislation the violations to international humanitarian law by typifying crimes against protected people and their assets, which have allowed us to penalise conduct that occurs within the armed conflict.

The law that approves the treaty that created the International Criminal Court is in the process of being approved by Congress. It is a valuable instrument to judge those responsible for serious human rights violations. The Ottawa convention against antipersonnel mines was approved and ratified, and the Government has created a working group that will be in charge of verifying the fulfilment of the obligations contained in this international agreement.

All of you are witnesses to the constant openness and transparency of the Colombian Government and State before the international community, even in difficult and exceptional situations.

(...)

Invited by the Colombian Government, the Representative of the General Secretary for Human Rights Defenders Ms. Hina Jilani, and Special Representative of Violence against Women Radhika Coomaraswamy visited our country last year. We have also extended invitations to the special representatives for the Freedom of Opinion and Speech, for Extrajudicial, Indicted or Arbitrary Killings, and for matters related to forced or involuntary disappearances. We will keep welcoming all contributions and recommendations from the human rights international community, without leaving aside our right to question positions and refute analyses that rather than helping our national institutions, question its operation moved by partial or temporary approaches, endangering its efficiency and legitimacy.

We do not ignore the obligations we have with the Colombian people. We have worked on an ambitious agenda of social programs, focused on attention and aid to the most vulnerable populations. In such a way we are making an effort to fulfil the duties we have with Colombian society which means an imperative need to push social investment, to save the most depressed sectors, to continue with the modernisation of State institutions, all in all, to strengthen our democracy, that will open up the possibility of guaranteeing the fulfilment of civil and political rights, as well as the economic, social and cultural.

The Government and the Colombian State keep working on making the necessary changes to build peace regardless of the results obtained in the talks with the guerrilla.

Finally, we could also add the permanent and unbreakable decision to keep the doors open to a political negotiated solution to the conflict. An option for the negotiation has been closed but we have not renounced peace. It is in that context that we keep encouraging talks with one of the main insurgent groups, the ELN, talks that we hope will bring tangible results in the reconciliation among Colombians.

To this purpose – The Government and all Colombian's - we hope for your understanding, support and solidarity.

2. The development of the Office's mandate in Colombia

Since November 1996, the mandate granted to the Office has been extended and supplements have been made to the original agreement with new provisions which seek to provide a wider presence on the spot, and a better development on advisory tasks and co-operation which inspired the creation of the Colombia Office. Evidence of this is the authorisation for the opening of local auxiliary offices in Cali and Medellín, and the extension of the Accord until April next year signed last December[2] .

Thus, the objectives of the Office according to the Agreement signed on 29 November 1996 are:

> *"to advise the Colombian authorities on the formulation and application of policy, programs and measures to promote and protect human rights in the context of violence of internal armed conflict at present occurring in the country, and to allow the High Commissioner to present analytical reports to the Human Rights Commission. In order to achieve its mandate, the activities of the Office will focus on co-operation with the Government of Colombia in order to contribute to the improvement of the human rights situation, and in concert with CICR, to promote within the limits of their respective mandates respect and observance for human rights and International Humanitarian Law in Colombia. At the same time, the Office will provide advise on matters within its competency to representatives of civil society, Human Rights NGOs, and individuals*[3] .

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[2] As stated in the report and its conclusions, in which the High Commissioner "takes note of the extension of the mandate of her office in Colombia, and thanks the national and regional authorities for their cooperation in facilitating the opening of sub-offices of the High Commissioner in Cali and Medellín".

[3] Chapter IV, Section 5 of the Agreement

Thus, the functions of the Office which develop the mandate transcribed above and should be understood within the framework of the same, provides amongst other things:

> *"a) To advise the executive on the global definition and implementation of policies with regard to human rights. In this framework, it may provide advise to the Armed Forces. (...)*
>
> *e) To ensure that recommendations and decisions made by the Human Rights Organs of the United Nations Organisation will be considered by the public authorities who have powers and responsibilities in this regard, and to provide them with advise and the adoption of specific measures for application. (...)*
>
> *g) To maintain a constant dialogue with all competent organisations of the Government - civil and military - and of the State, and organisations in civil society engaged in the promotion and defence of human rights, in order to observe and make an independent and impartial follow up of the human rights situation, taking account of the context of violence and armed internal conflict which is suffered in Colombia* [4] *".*

The Government of Colombia, through to its commitment, with the development and implementation of its policy for the promotion, respect and guarantees of human rights and the application of International Humanitarian Law expects, and in this sense calls on the High Commissioner to ensure that the new stage of work in her Office -necessarily determined by the current situation in the country- will be characterised by full co-operation with the authorities through specific short and medium term projects with different instances of Government and State, so that now that the phase of acquaintance and observation of our realities has been completed, its work will not consist of being just one more critic of the situation, but will be that of an ally which together with our own authorities will be able to make progress in overcoming the difficult times in which we live.

In this sense, and on the basis of recommendations made by the High Commissioner in her report, the Government of Colombia through the Intersectorial Commission for Human Rights and International Humanitarian Law, attending to the recommendations made in the Report, formally asks the Office and hopes to be able to draft terms of reference jointly with it, for the design and execution of technical advisory projects in specific matters referred to here, baring in mind precisely the report of the High Commissioner in the first recommendation, according to which *"it repeats its availability and will to continue to accompany the Government, to other institutions in the State and civil society in the search for mechanisms and encouragement for measures which will enable the complex and critical situation of Colombia to be appropriately faced in matters within its competence. The High Commissioner invites the Government to engage in deeper and more specific dialogue and co-operation with the Office, in order to ensure that the benefits of its mandate can be achieved in their full dimension".*

Thus, the matters with regard to which the Government is taking specific action for full implementation[5], through the competent institutions, and seeks to obtain during this year the

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[4] Chapter V, Section 7 of the Agreement

[5] This includes matters in which the State considers that its actions require support from the international community. But not those with regard to which such cooperation, in the present

advise of the Office with regard to an evaluation of the scope of recommendations, and to optimise action within the framework of its policy, are, in general, and attending to the text of the recommendations of the High Commissioner, the following[6] :

a. *"The design and implementation of the concerted National Action Plan for Human Rights and International Humanitarian Law should contribute to the effective enjoyment of the same"* (Recommendation 2).

Entity responsible for co-ordinating the project: The Presidential Program for Human Rights and International Humanitarian Law.

b. *"Follow up and implementation of international recommendations on the matter, including the commitments arising from the discussion of the six-monthly report of the Colombia Office". (...) "The State should give prompt follow up and apply the recommendations of the Committee for the elimination of racial discrimination and of other international organs" (...) "Likewise, it exhorts the State to follow up the recommendations of the Committee for economic, social and cultural rights".* (Recommendation 3 , 14 and 18)

Entity responsible for project co-ordination: Ministry of Foreign Affairs.

c. *"The State should strengthen the work of the Special Committee for encouraging investigation of cases of violations of human rights and International Humanitarian Law, and should commit all institutions to implement the commitments contracted in it."* (Recommendation 7)

Entity responsible for project co-ordination: The Presidential Program for Human Rights and International Humanitarian Law.

d. *"The High Commissioner invites the Colombian Government, to examine, in co-operation with its Colombia Office, the recommendations made by the international mission on prisons, in order to implement them efficiently in practice".* (Recommendation 9).

Entities responsible for project co-ordination: The Ministry of Justice and the Prison Service INPEC.

e. *"High Commissioner again urges the Government to address its efforts to design, funding and immediate implementation of comprehensive and effective mechanisms to prevent and*

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circumstances, and given the specific progress made to date, do not make this indispensable, such that a cooperation mechanism is not used needlessly, but it focus on specific aspects of policy which require greater and deeper consideration. This also does not include matters in which decisions or actions of the Government, as will be mentioned in this document, are in themselves an implementation of related recommendations.

[6] This obviously does not include the calls made by the High Commissioner to the armed groups beyond the pale of the law, since such calls are fully shared by the Government.

respond to situations in which information is available and there has been warning of violations of human rights or breaches of International Humanitarian Law". (Recommendation 11)

Entities responsible for project co-ordination: Presidential Program for Human Rights and International Humanitarian Law, and the Office of the People's Defender.

f. *"That the Minister of Labour adopts appropriate action to strengthen the work and effectiveness of the Interinstititutional Commission for Human Rights of Workers, and overcome the current paralysis in this field"* (Recommendation 13)

Entity responsible for project co-ordination: Ministry of Labour.

g. *"Priority should be given to compliance with accords already signed between the Government and the indigenous communities, the Afro-Colombian groups and native groups, and the State should ensure that comprehensive policies will be defined and implemented to guarantee the enjoyment and exercise of specific rights enshrined in the Colombian Constitution for these communities, including gypsies. (...) The Criminal Code should contain an offence defining discriminatory conduct based on the race of persons".* (Recommendation 14).

Entity responsible for project co-ordination, Ministry of the Interior.

h. With regard to forced displacement *"in the framework of prevention", and "in the ambit of a differentiated focus"* (to those referred to in detail in Recommendation 15).

Entity responsible for project co-ordination: Social Solidarity Network RSS.

i. *"The High Commissioner also repeats her recommendation to harmonise the Minor's Code with the Convention on Children's Rights".* (Recommendation 19).

Entity responsible for project co-ordination: The Ministry of Justice.

j. *"The High Commissioner again exhorts the Government, and in particular the Ministry of Education, to guarantee the appropriate teaching on human rights at all levels of education. It repeats its request for the preparation of a national action plan for education in this area, in the framework of the United Nations decade for education in the sphere of human rights"* (Recommendation 20)

Entity responsible for project co-ordination: The Ministry of Education.

3. Some observations on the content of the Report: matters of special concern to the Government

The Government shares the concern expressed in the report with regard to the gravity of the human rights situation and/of International Humanitarian Law in Colombia. The facts described in the document evidence the importance of the presence of the Office in Colombia as a

mechanism for effective co-operation of the international community to overcome this acute problem.

The gravity of the situation described on the report largely responds to conditions which have been structured over many years, and which are certainly not due to policy actions by the authorities or actions attributable to them, and much less so in recent times.

If indeed the Colombian State has undertaken a series of actions designed to put an end to the situation -an effort which has intensified in recent years- the work made has not been sufficient, and has not yet provided the expected results due fundamentally, and referring to the period covered by the Report, to the degradation of the armed conflict which has been expressed in an increase in violent actions by the irregular groups - the guerrillas and the illegal self defence groups - against the civil population.

As the statistics contained in the report show, almost all the acts violating fundamental rights of the people, and the cases of disrespect for International Humanitarian Law, are the work of members of those groups. The Colombian State pursues and combats these irregular organisations with equal determination, and through the strengthening of the Forces of Law and Order and the administration of justice seeks to neutralise and avoid violent actions by these groups against the civil population, and to ensure that criminal action will be punished.

The Colombian State does not deny or conceal the serious human rights situation which we face, but equally does not accept institutional responsibility in its own parts, since such accusations contained in the report ignore the harmful humanitarian and social effects of a guerrilla war which has been continuing for more than 40 years, added to the problems of paramilitarism and drug-trafficking.

Despite the difficult situation Colombia has a State which is based on a regime of law, without the need to resort to the means of exception authorised by International Human Rights Treaties. On the contrary, the State of Law is built on the conviction that only with the strengthening of public policy for the promotion, respect and guarantees of human rights and the application of International Humanitarian Law will it be possible to maintain participatory democracy and pluralism.

Thus, the repeated accusation against the Forces of Law and Order regarding the violation of human rights, means that the isolated acts of a few of their members are made to appear as an institutional, common and systematic practice on the part of the State, and this disavows the tradition of a nation which has made its best efforts to respect the framework of the Constitution and the Law which governs us and the international commitment which we have contracted.

Certainly, the Colombian armed conflict like all armed conflicts in the world, has had lamentable consequences for life and the basic freedoms of individuals, in particular when those involved are deaf to the mandates of International Humanitarian Law. But the harmful effects of the war do not stop there. The stagnation of the economy and the consequent social recession in a country with high poverty levels, being aggravated by the lack of public order, which has had a negative effect on Colombian and foreign private investment, has encouraged the flight of

capital, promotes forced displacement from the rural areas to the cities, and requires a growing share of the budget to be spent on defence, to the detriment of social investment.

Therefore, the best strategy of the Government with regard to the subject of human rights -civil and political rights, but also social and economic ones- is peace. More effective than body guards and bullet proof jackets, or more prosecutors and procurators, would be a political solution to the armed conflict. The international community and the people of Colombia are aware of the immense efforts made by the Government and the State to achieve a negotiated peace and to put an end to blood shed. But it takes two to negotiate, and in the case of the FARC guerrillas instead of winding down the war, there was an increase in their attacks on the civil population, on the highways, and on the energy infrastructure. This, which in our opinion is basic, is not understood or evaluated in the report: it is hardly mentioned.

The report states with regard to the peace talks: *"the scanty achievements in the Peace Process should be understood in the context of the intensification of war, the progressive increase of institutional weakness and of the State of Law, and the absence of the State in those regions of the country; this has made the crisis of governance deeper. In parallel, the co-operation of the Special Advisor of the Secretary General continued, deploying efforts to support the parties, and to encourage the dialogue process".*

These appreciations are not precise, and indeed they are formulated from a biased observation with what happened with just one of the guerrilla groups, without mentioning the events of the peace conversations with another of the more important groups with which a peace process is in train, the ELN, with whom exactly the opposite to what the Office stated occurred. The comment made improperly generalises the situation to apply to conversations with all parties concerned.

The peace talks and negotiations between the Government and the ELN restarted in November last year after 3 months of suspension, when the parties, motivated by a wish to achieve a negotiated solution to conflict, begun an intense round of meetings to explore alternatives and give a fresh encouragement to the process.

As a result of this encounter, the "Agreement for Colombia" was signed on 24 November, in which the parties in one of their most important efforts to make progress in approaching the possibilities of a solution, despite the polarisation in the country - ratified their intention to continue to work in the search for a political solution to the conflict and establish the course which the parties' efforts should take in the future. Thus, a transition agenda was agreed, including the holding of a peace summit, 5 theme-based forums, and bilateral working sessions to discuss amongst other things the cease fire and the end of hostilities, measures for the reduction of conflict, and the problems of the energy sector.

The agenda then made out has been complied with. The parties met on several occasions in Havana in order to make progress on the topic agreed, and on the implementation of the Agreement for Colombia and the Declaration of Havana. At the same time, meetings are being held with the facilitation commission of the Group of Friendly Countries, to analyse their role in this new stage of the process, and to strengthen their work of accompaniment and facilitation which they have performed so far.

Also in furtherance of the accords, the Summit for Peace was able to be held on January 29-31, with the participation of representatives of wide sections of Colombian society and the international community. The conclusion of the Summit was that it is necessary to take firm steps in obtaining specific acts of peace, in particular in areas as important as the discussion of the truce.

These recommendations were taken up by the parties, who at the end of the Summit had an initial exchange of ideas with regard to the truce, on the understanding that the scheme of negotiations in the midst of conflict is no longer viable. In addition, two meetings were held with the Commission of Notabilities which was set up in the framework of the FARC Peace Process.

During February, representatives of the Government and the ELN met at the highest level in Havana in order to ratify their will to reach a truce agreement and thus begin to define the principal components of such an event. The work continued in sessions on 7-9 March in Havana when the parties worked on negotiations of the elements which could be included in the Truce Agreement, and the mechanisms which would allow it to be operable and verifiable. It is hoped that in the next working sessions the Government and the ELN will make progress in the discussion of these matters, and that their positions will come closer to each other in matters where there are still differences.

The intention of the parties is that this should become a factor which strengthens the political solution of the conflict, and will be a specific step to political strengthening of the peace process.

Finally, and with regard to the peace talks, we are surprised to note - considering that the author is the Office of the United Nations High Commissioner for Human Rights -that no recognition is given to the real dimensions of the agreement signed between the Government and the FARC in June 2001- the period covered by the report, which allowed the release of 300 members of the Armed Forces who had been deprived of their freedom by the FARC for more than 3 years. This was an event without precedent on the Colombian conflict, but the report states on the contrary that in the evolution of the talks it was made clear that *"not only were there difficulties in advancing towards agreements which would bring the possibilities of solution closer, but also that there was a precarious level of social and political support for the processes"*.

The Colombian State also does not spare any efforts to overcome the difficult situation of human rights violations. The Government has assigned much importance to the functioning of the United Nations Human Rights Office in Colombia, co-operating with it, and placing the issue of human rights at the highest level: the Office of the Vice-president.

Further, the Judiciary has also responded to this commitment. The National Human Rights and International Humanitarian Law Unit of the Prosecution Service, between January 2001 and February 2002, issued 289 warrants for the arrest of members of the self-defence groups, and 86 of them have been implemented with the support of the Police and the Army, which have also co-operated in the capture of 83 persons caught *in flagrant*, now being tried for the massacres of Naya, Guamalito and Buga.

It should be noted that during the time mentioned, the alleged author of the murder of Ivan Villamizar-Luciani, the former Peoples Defender was captured as was the commander of the self-defence groups for Northern Casanare, involved in the murder of the Congressman Octavio Sarmiento-Bohorquez: two commanders operating in Bahia Solano were also captured, along with alias "El Gato" for threats and destruction to the installations of the Organización Femenina Popular OFP of Barrancabermeja.

This scenario should be contrasted with the operating results of the struggle against the illegal self defence groups. While in 2000, one deserter was captured, 78 members of those groups were killed, and 167 captured, in 2001 there were 8 deserters, 116 killed, and 990 captured. In other words, it cannot be deduced that from the existence of a violation of human rights attributable to a public servant state policy is that of accepting and tolerating such violations to International Law.

On the contrary, through the legitimate use of force, the Police and the Army have faced up to the forces of subversion, and with the result that between January and December 2001, 1,028 were killed, and 1,776 captured.

The actions described are equally confirmed by the work of the Prosecution Service as a whole. With regard to the self-defence groups, 144 investigations were opened against them, and 98 against members of subversive groups. With regard to precautionary measures, 673 were issued against the self-defence groups and 227 against the guerrillas. When these figures are compared with the results for 2000, we can see an increase of 29.4% with regard to members of the self-defence groups and 59.8% against the guerrilla groups. The arrest warrants against the guerrillas totalled 262, compared to 551 against the self defence groups. Compared with the year 2000, those against the guerrilla groups grew 3.9% and those against the self-defence groups 61.7% equally, indictments against members of the self-defence groups totalled 402 compared to the guerrillas 114, an increase of 29.2% compared to 2000 with regard to the self defence groups, and 54% with regard to guerrillas.

The achievements here briefly described, in the framework of absolute respect for the principles of the Charter of the United Nations, are the basis for strong disagreement with regard to the statement contained in particular on Paragraph II on Page 19 of the report, according to which *"the actions of the paramilitary groups compromise the responsibilities of the State by violations of human rights"*, not only by acts of omission or commission of public servants, but also by dereliction of the duty to which the State is obliged in pursuing and punishing those responsible for such violations.

The Colombian State has taken precise action in prevention and punishment of violations of human rights and International Humanitarian Law, and in protection of the civil population within the limitations of a nation branded as a developing country, which is at the same time brought low by the scourge of drug-trafficking and the barbarities of terrorism.

Therefore, the Government shares the High Commissioner's Office view that the degradation of conflict has brought a deeper deterioration in respect to the human rights and for the provisions of International Humanitarian Law, but profoundly regrets that the actions taken through the various opportunities generated to fight impunity, and to engage in dialogue with the community,

civil society and international organisations has not been recognised. This is the case of the Committee for the Pursuit of Serious Violations of Human Rights whose best efforts are being made in Arauca, in Southern Colombia, in Catatumbo and in Barrancabermeja. After one year of work, in which only 38 cases were pursued, the Government was aware that the dimensions of the situation required other mechanisms for action to be efficient.

Due to the precarious nature of infrastructure, the need for qualified human resources and funds to do this work, the Government undertook to request support and accompaniment from the from the international community in order to make progress of the most serious crimes, and in May-2001 proposed the creation of inter-institutional working groups to obtain better results in the struggle against impunity, particularly in Arauca, Valle, Cauca and Barrancabermeja.

Also, the design and implementation of the "Project for Struggle Against Impunity" is evidence of the political will to make progress in the reshaping of the concept of this phenomenon, abandoning common places and enabling it to be more effective with a serious proposal on the task of reducing its manifestations as far as possible.

Another important opportunity in the struggle against impunity is that which has generated the dialogue between the State, the families of victims, and organisations of civil society through the Search Commission for the Disappeared, which is making progress in its restructuring work, and when appropriate, regulates aspects such as the support and promotion of investigations of the crime of forced disappearance, design and support and evaluation of plans for the search for the disappeared. the formation of working groups for attention to specific cases, the creation of data bases for the National Register of Disappeared, and the protection and management of assets, amongst other things.

Equally, there is highly relevant commitment on the part of the Colombian State, assumed at the World Human Rights Conference Indiana in 1993, referring to the design and execution of the National Action Plan for Human Rights. Actions taken so far with the support of the Office of the High Commissioner, amongst others, have led us to generate in the first instance an exploratory stage which in global terms was designed to identify and organise the principal working experiences in concepts between the State, the Human Rights Organisations, and social and political movements, and to identify progress, difficulties and achievements in developing those experiences.

On the basis of this exploration, workers begun on redesigning the process for preparing the plan, giving preference to commitments generated in the framework of treaties and conventions on human rights and International Humanitarian Law, without ignoring the recommendations of the international human rights organisations. At the same time, development will focus on the prospects of achieving greater political and social consensus, so that this would be a respected policy of the State, observed and promoted by subsequent governments. In this sense, we will seek the accompaniment of the Human Rights Office, the NGOs, and the delegates of the presidential campaigns, so that the base document constructed will subsequently be disseminated in regional and local contexts, and among interest groups and associations, etc.

There is an equally large commitment, assumed at the highest level, by the Intersectorial Commission on Human Rights with the secretaries of the Union Federations, to identify those

responsible in cases of violations of human rights in which union members and workers have been the victims. For this purpose, with the leadership of the Ministry of Labour and the accompaniment of the Office of the Vice-president in specific cases, together with the representatives of the workers, mechanisms and strategies will be designed to facilitate the obtaining of convincing results in the clarification of such crimes.

The High Commissioner's Colombia Office has observed, related and analysed for 5 years the complexity of our conflict, and has come to recognise that given its intricate characteristics the performance of the mandate has become a little more difficult. The Office states that: "*impunity, the problems of the workings of the justice system, the clandestine nature of the operation of several groups and their structures, means that many of the acts which this Office should observe are only discovered several years later, and this makes it difficult to establish the identity of the type of responsibility which compromises the State with them*".

Despite this statement, the Government must state that it is disconcerted that such difficulties, argued as valid in reporting on *"the development of the office mandate"* then become inappropriate and indeed failings of a mission, when reporting on the activities deployed by the State.

Likewise, the opportunities briefly described and generated by the Government with different sectors of society and institutions, are a real expression of the will of the State to attend to the problems proposed and eradicate them. Nonetheless, it must be said that unfortunately, and perhaps for reasons due to the capacity of the Colombia Office, that Office has not responded on many occasions to the invitations made, this situation being in contrast with the appreciation contained in the report, according to which *"the principal problem continues to be the absence or inadequacy, as the case may be, of continuity, follow-up and implementation of programs, laws and mechanisms, such as the various inter-sectorial committees and commissions"*.

The Report forgets that the unconditional commitment of the State to the respect for and guarantees of human rights of all individuals in this country has begun to show better results. While in 2000 the Human Rights Procurator received 461 complaints of which 178 went to preliminary investigation, 57 extended to formal investigation, 32 to indictments, in 2001 the number of complaints increased to 502, preliminary investigations were carried out for 163, formal investigations in 78 cases, and 40 indictments were issued. In other words, of the 502 complaints received only 40 lead to evidence of disciplinary responsibility on the part of public servants. The work of the Procurator's Office has also brought 32 sanctions and 12 acquittals in 2000, but 40 sanctions and 16 acquittals in 2001.

Likewise, the political will of the Government, expressed in the issue of Decree 1790/2000, which provides senior army officers with discretionary powers to retire officers and junior officers at any point whatever their length of service, has also been reflected in the effective retirement between September 2000 and January 2002 of 631 army personnel, of whom 161 were officers and 471 were junior officers, the grounds being discipline, professionalism, commitment to the Army, adverse effects on moral and image of the institution, and responsibility in the performance of duties.

The Government also considers it fundamental to state that in social policy the present administration, wishing to improve the conditions of life of the people in general, has been implementing policies and programs to ensure that economic, social and cultural rights are effective. In this sense, Section 5 of this document gives details of the work done by the Government in economic, social and cultural rights.

Here, the criticisms of the mechanisms so far designed to fight impunity, corruption, and to diminish levels of poverty, generate employment, and offer acceptable levels of security, is not in accordance with and does not take account of the appalling actions of the terrorists, which supported by the drug-traffickers as their principal source of funds, has obliged the State to redirect physical, financial and technological resources to the protection of 11,859 kilometres of pipeline, critical points of the communications, energy and drinking water infrastructure of the country.

This is a terrifying reality, which is made the more complex if it is noted that in 254 municipal districts of the 100,049 in Colombia, the Forces of Law and Order have not been able to establish presence, since at present we only have 164,000 active service man. Of this total, 55.3% are engaged in mainly military operations, 13.29% to security for the energy infrastructure, 27% in training in fixed installations, and 5.41% in reaffirming sovereignty along extensive frontier areas.

4. The current situation in Colombia, the challenges to be faced

On 8 February, the President stated when he greeted the Diplomatic Core accredited to Colombia, that *"there are new demands with regard to terrorism which cannot be ignored by the States, or by other non-state agents. Any act which may be defined as a terrorist act has today a greater relevance, and is the object of scrutiny and sanction, which is increasingly more severe on the part of an international community bound by decisions which have been taken by the UN Security Council"*.

And it ads that *"to ignore these changes in world trend would be senseless. No corner of this planet may be considered as a safe refuge for those who undertake terrorist acts. No group can be considered exempt from clear responsibilities under International Humanitarian Law, and the World Anti-terrorist Code which is being defined in a most convincing form. No ideology or pretended social justification can be alleged to breach the rules of war, or to make indiscriminate attacks on an unarmed civil population"*.

Some days later on 20 February, and in the face of the reasons which the international community is well aware, the President announced his decision to close down the process with the FARC which had been continuing since the start of this administration, and he said *"I will continue to look for peace, hand in hand with all of you. But I will not submit the Colombian people to the arrogance of negotiators who say that they want peace, but who shut it down. The book of peace remains open, and will only be closed on the day in which we achieve peace"*

Evidence of this open attitude on the part of the Government to the search for a negotiated settlement to armed conflict, is contained in the progress which has been made in conversations

between the Government and the ELN, whose latest joint communicate issued on 12 March 2002, states that:

> "1.- *Given the situation of this country, it is necessary to reaffirm that it is possible to find a political solution to the conflict. For this purpose, we have initiated the study of a truce agreement which may be converted into a tangible act of peace for the people of Colombia.*
> 2.- *The truce is not a definitive peace agreement. It is a first step to create the conditions for the development of a peace process which would lead to a political solution with social justice.*
> 3.- *The truce will include considerations which would reduce the intensity of conflict, and will imply immediate release for all Colombians.*
> 4.- *The truce would have international verification, and an analysis is being made of mechanisms to bring this about.*
> 5.- *At present, the parties are in consultation, and once consultations are completed the working sessions in Havana will continue.*
> 6.- *We invite all Colombians to support this effort".*

In addition, the elections for the Senate and the House of Representatives, conducted on 10 March across the country, as stated by the President on the following day *"offers us some very important conclusions"*:

> *"that it is worth exchanging the bullet for the ballot. This is something which the hawks have not understood, but which has provided a result for those who have exchanged the force of arms for that of democracy. The high voting for candidates who in the past were militant guerrillas are powerful evidence that we Colombians will always be ready to support political options, but we will never support violence as a means for obtaining power".*
>
> *(...) We have sent a very clear message to the whole world, which was awaiting the development of our electoral process: here in Colombia we have many difficulties, and suffer the consequences of the action of a few violent men. But here in Colombia there is no chaos! We have an operative and stable democracy which works well above all obstacles. We have problems, but we have not been defeated. On the contrary, with the power of the vote we have overthrown the intolerance of those who do not believe in our democracy".*

Despite difficulties expressed throughout the Report, the Colombian Government repeats to the international community, on the basis of successes achieved through the actions, policies and activities which are described in this document, its unconditional commitment to the respect, validity and guarantees for the rights and freedoms of all individuals in this country.

5. Clarifications required to the Report of the High Commissioner

a. With regard to human right defenders and union members

The report presented by the High Commissioner's Office makes a series of statement which in the opinion of the Colombian Government ignores and omits the progress which has been made in the course of work, specially in recent months. In this, we could make comments from

different points of view -administrative, financial, operational, and political- on the work which has been done from this Ministry in order to protect the lives of union activists and leaders, human rights defenders, journalists, witnesses, members of the Union Patriótica and of the Colombian Communist Party, which as a result of their activity have been the object of threats and harassment.

Administration and Finance

Mention must be made of the substantial support given by the Government generating immediate responses to the funding requirements of programs, in terms of financial strength, through 3 budget supplements in order to satisfy constant demands of this program, achieving greater efficiency and effectiveness in the implementation of protection measures.

Further, in 2001 the protection program received funds from US-AID in addition from the funds received from the Central Budget, this being the first time that the Program has received international co-operation funds.

The report states that *"during this year, this Office has been concerned to see the continuation of administrative programs and bureaucratic difficulties which affect the efficiency of the Protection Program in the Ministry of the Interior. Among these difficulties we should mention the delay in transfers and in the application of funds allocated to the program, which has affected the timely execution of measures"*.

Despite this statement, it is evident that the Protection Program has become financially stronger during the last year. In 2001, the Budget increased 415% above the year 2000, from $4,834 million to $24,918 million. This increase is reflected in the number of hard and soft protection measures implemented in the last 10 months. Indeed, in addition to the $24,918 million allocated to the Program, we must add the $5,000 million which were allocated to DAS, for the Protection Program, giving a total of $29,918 million.

Likewise, we must mention that the Ministry of the Interior, in order to improve its capacity to react in the prompt adoption of protective measures, in 2001 ordered resources available to the Program to be managed and executed through UNDP, which following its own procedures and processes, executed most of the funds for the means of protection.

In the year 2000, in order to improve the efficiency and operability of the Protection Programs, an order was given for the funds to be executed through FONADE, which has offered some efficient procedures to implement protective measures.

In this, and with the co-operation of US AID the information system will be implemented in the next few months, and the premises of the headquarters of the program will be remodelled to provide better service to users.

Operational

Here, we can clearly see the fresh strength which has been given to the structure of the protection programs with the increase in support personnel through highly-trained professionals, which has

enabled an increasing number of requests for protection to be met. For example, there were 84 cases of union members attended to in 1999, but 1,033 in 2001; there were 50 cases of human rights defenders in 1999, and 537 in 2001; and 43 cases of union leaders and witnesses rose to 327 in 2001. All this shows that the Government has a political will to provide a solution and special attention to these cases. It should be clarified that in a very high number of cases, the protection measures which were implemented in 2001 correspond to commitments made in prior years which have not been implemented due to lack of funds. A difficulty, which as mentioned, has been notably overcome in recent months.

Policy

The report states that "The situation of human rights defenders in Middle Magdalena, specially in Barrancabermeja is particularly precarious. There is particular concern for the situation of OFP and CHREDHOS".

In the face of this statements, this Ministry wishes to draw attention to the visit which was made on 16 November 2001 by the Ministry of the Interior Doctor Hernando Estrada Villa, to that area, who in a public event with participation of representatives of the different sectors, specially human rights defence organisations and union members, recognised and praised the work of human rights defenders in the area, with particular reference to the work of CREDHOS, OFP, ASFADDES, the Regional Peace Group, and the Valle del Río Cimitarra Association.

Likewise, the Minister remarked on the State's rejection of public servants who expressed themselves or act contrary to social organisations, as was ordered in Presidential Directive 07. These pronouncements confirm the good relations between the Government and social organisations.

Finally, it must be noted that the programs have over the last two years experienced an increase in demand and coverage, generating a significant impact in social, financial and political terms for the State. This has lead the Government to reflect on the need to evaluate the functioning, funding, procedures, and other elements in the programs, in order to optimise activities, and for this purpose a commission has been formed by a representative of the Office of the Vice-president, a representative of the Police, of DAS, of the ILO Colombia Office, of the UN High Commission Office, and three representatives of social organisations (one for NGOs, another for the unions, and a third for the Communist Party -Union Patriótica) in order to further the co-ordination of the evaluation process. This process will be designed to analyse the current conditions in legal, political, administrative, financial and operational terms, considering future possibilities for development, organisation, technical development and optimisation, in order to design a legal regulatory and administrative framework appropriate for the protection system. This evaluation will take place in two stages:

a) The first stage will present analysis of the current state of affairs in legal, political, administrative and operational terms of the Protection Programs.

b) The second stage will present a proposal to establish a legal and administrative framework for the protection programs in order to optimise their activities.

After the protection programs have been evaluated, a follow-up system will be set up for the recommendations made.

At this time, the selection process is in train to find consultants who will evaluate the protection programs to be led by this Ministry.

Clarifications of actions taken by the Protection Program in the cases of human rights defenders and social leaders:

The report states that "...This Office was able to establish that members of these groups must perform their activities in conditions of lack of security and lack of guarantees, placing their lives and persons in serious risk..."

Despite the statements made in the report, we consider that this point should be re-evaluated by the High Commissioner's Office, in the light of actions and measures implemented by the Protection Program for the human rights defence organisations, and union leaders and members.

However, given that such measures are a matter of restricted information, their content is not published in this document. However, the Government does wish to call on the Colombia Office to receive the information regarding this point at working sessions at the Ministry of the Interior, so that it will be sufficiently enlightened with regard to the important activities of the program, which should be taken into account and appropriately recorded in future reports.

The detailed information on this matter is available with regard to the following organisations:

a. OFP
b. CREDHOS
c. ASFADDES
d. Attorneys' Association Jose Alvear Restrepo
e. NOMADESC
f. SEMBRAR
g. CODHES
h. ANDAS
i. REINICIAR
j. Embera Katio Community
k. Sintramienergetia
l. Sintraemcali
m. Anthoc
n. USO
o. Fenaltrase
p. Wilson Borja
q. Municipality of Dagua Union Workers (Segundo Florentino Chavez)
r. SINDIBA
s. FECODE

b. Ethnic Groups

Caribbean Native Groups

With regard to the situation of Caribbean native groups, it must be accepted that the Government has undertaken a number of actions to ensure that these persons rights are respected. In effect, a Presidential Advisor was appointed for the purpose, and various programs have been implemented in the region, such as projects for etno-education to strengthen these native groups, amongst others.

At present, the Presidential Advisor and the Caribbean native population have set up working groups to attend to a number of matters which affect the community, and which discuss topics set as ethnic and cultural protection, the development plan, and territorial management.

At the same time, mention should be made of the fact that in January 2002 a High Level Commission was sent to San Andrés, composed of the Ministry of the Interior, the Ministry of Development and the Ministry of Foreign Affairs, in order to attend to Government commitments in the region.

Indigenous Groups

It is Government policy to consolidate prevention and protection mechanisms for the indigenous groups in the face of violations of human rights. In order to provide comprehensive attention to the human rights problems around this country, various government agencies have authority to act in this field, and they have worked in co-ordination to undertake actions designed to promote and defend the fundamental rights of the indigenous peoples, reflected in verification visits, humanitarian commissions, disciplinary investigations, orders given to the relevant investigation agencies, participation in security councils, and the formation of inter-institutional commissions to attend to human rights problems.

Government policy for the indigenous peoples

It should be said that Government policy for the indigenous peoples in Colombia has the legal instruments to guarantee the protection of these peoples, and to guarantee the protection of their lives. As an illustration, we present some of the actions taken:

- In agrarian affairs, the Agrarian Reform Board INCORA has legalised land-holdings through the establishment of 571 reservations with a total area of approximately 30,206,741 hectares, representing about 28% of Colombia's territory, for the benefit of 73,764 families or a total of 392,500 indigenous people. At present, there are 57 reservations of colonial or republican origin, and one indigenous reserve.

- The indigenous communities of Colombia have the following organisational bodies:

– Cabildos: recognised by the State as special public entities, with functions to be the legal representative of the community, to exercise authority, and to undertake activities which are committed by law, custom, and the internal regulations of each community.

- Traditional authorities: members of an indigenous community who within the structure of their respective culture exercise the powers of organisation, government, management or social control. With regard to agrarian regulations, these authorities have the same representative nature and powers as the cabildos.

- First and second order national and regional indigenous organisations such as ONIC, ASI, and MIC. 69 organisations of this kind have been registered.

- Associations of cabildos and traditional authorities: defined as special public-law entities, with independent legal existence, their own assets and autonomy in administration whose object is to provide for the integrated development of the indigenous communities which form them. So far, 198 such associations have been formed.

- Political representation: During this legislature, the indigenous people are represented in Congress by 3 senators, two of the three elected in a special constituency, and one representative in the Chamber of Representatives. It is important to note that the participation of the departmental legislative organs play an increasingly important part at the level of departmental assemblies and Municipal Councils, as do mayors, trough popular election. At the same time, it should be noted that there is an indigenous governor at the Department of Cauca, from the Guambiana Group. At the same time, for the congressional elections of March 2002 the Indigenous Affairs Division of the Ministry of the Interior acted with regard to the Special Indigenous Constituency to receive candidacies for the Senate and the House of Representatives, and there were 12 candidates for the Senate and 12 for the House.

- As of 1995, the indigenous communities through participation in Government revenues have received a total of $190,043 million. Until the land-use law is regulated, funds are executed in projects presented by the indigenous communities to the mayors, under inter-administrative agreements signed between them and the legal representatives of the reservations.

- Health care for the indigenous communities has been established as a free service since 1991, with Decree 1811.

  The indigenous communities form part of the General Social Security System, in the subsidised regime. In order to identify the beneficiaries of this, the indigenous communities are not required to apply to the Benefit System SISBEN; in this case, the Governor of the Cabildo delivers the local mayor with a census list with the name, age and gender of the members of his community.

  The Ministry of Health is currently implementing a policy to bring the indigenous population gradually into the Subsidised Health Regime provided for in Law 100/93. During this period, 461,241 indigenous people have been incorporated into the health System, and the cost of the service in 2001 prices is $73,287 million.

Likewise, health care is being provided for indigenous people who are not yet part of this regime, but who are covered by Decree 1811/90, in an attempt to increase health coverage to the entire indigenous population of this country.

Further, current regulations provide for the formation of administration companies for the subsidised health regime for the indigenous population - Indigenous ARS.

At present, Decree 330/2001 is in force, an has created 10 Health Promotion Enterprises (EPS) formed by cabildos or traditional authorities of the indigenous communities.

Also, during 2001, Law 691 was passed (18 September). This regulated the participation of ethnic groups in the General Social Security System.

- With regard to the family and children, the Family Welfare Institute ICBF has set up 1,870 school restaurants to attend to 76,772 indigenous children in nutritional recovery programs, which attend to 4,040 indigenous people. At the same time, 1,256 community homes were set up for 17,693 children, and comprehensive care has been provided for families, totalling 95,685 individuals.

- Through the Social Solidarity Network, there have been investments of $5,000 million, for the benefit of 2,568 elderly indigenous people, with the program Revivir, and 4,669 families with support for 26 projects in 31 cabildos. Thus, in situations of emergency due to heavy rains in the Department of Putumayo, the network supplied 22,500 food rations for 1,460 families.

- The Alternative Development Program (PLANTE) has supported 57 projects with an investment cost of $6,115 million, and providing 50% of the funds. These projects are undertaken in indigenous communities which undertake to eradicate illegal crops in their territory by manual action.

- The Indigenous Affairs Division, as part of preliminary consultations has in the last 2 years taken part in 45 consultation processes for 22 road projects, 16 oil and gas projects, 5 energy projects and 2 land restoration programs.

- As a first step in the consultation process with indigenous communities, the Indigenous Affairs Division certifies the existence of the indigenous communities in the direct area of influence of a project, and in this period has produced 163 such certificates.

- Through agencies such as DRI, INVIAS, PLANTE, and the Indigenous Affairs Division, amongst others, funds have been provided for life plans for indigenous communities and peoples

- In furtherance of Law 115 and Decree 804, the Ministry of Education has been implementing ethno-education programs developing components for formation, investigation, evaluation and production of material in indigenous languages. Also, the communities are encouraged to develop their own education by the allocation of funds to them, for them to implement their education programs.

Situation of indigenous communities in matters of Human Rights and International Humanitarian Law

The indigenous communities, in common with many other sectors of the population of Colombia, have been adversely affected by the internal conflict, due to the actions of armed groups beyond the pale of the law. This situation has forced the Government to take action to protect the human rights of the indigenous communities, and to enable the forces of Law and Order to engage in the investigations required to explain events which have affected leaders and members of the communities.

The National Indigenous Peoples Human Rights Commission

Created by Decree 1396/96 as a mechanism to strengthen the human rights in indigenous groups, composed of high-level representatives of the State, including three ministers: of the Interior, Defence and Justice; the Attorney General; the Director of the Prosecution Service, the Procurator General, the People's Defender, Senators, and as well as indigenous representatives who formed part of the Constituent Assembly, and representatives of the communities in different parts of the country.

This Commission has been meeting regularly, and the Government would like to see that it continues. At the latest meeting, held on 8 May 2001, was a highly productive session in which the Government and the indigenous communities developed the final agenda for the prevention and protection of human rights, one of the most important proposals was the consensus to prepare a special statute for the protection of indigenous communities, which was discussed during 2001 by the group of individual elected by the Commission to draft it, and it will be discussed at the next meeting of the Human Rights Commission.

On 23 July 2001, one day before the meeting of the National Human Rights Commission, the indigenous organisation ONEC and other indigenous representatives on the Commission sent a letter to the President to express their decision not to continue to take part in any of the negotiating bodies set up by the State. Nonetheless, the Government through the Ministry of the Interior has called on indigenous representatives and on the organisation to keep communication channels opened, specially when the Commission was co-ordinating actions for the benefit of the indigenous peoples of Colombia.

In the same vein, the President in a letter of 22 November 2001 informed Senator Jesus Piñacué of the importance of an immediate reactivation of the meetings of the Commission as an opportunity to define and design measures designed to prevent human rights violations, and to work for the protection and promotion of human rights, offering the commitment of various Government agencies to lead the agreements which had been made in the Commission.

Despite that, it has not so far been possible to reactivate this important forum for negotiation.

The Afro-Colombians and the Roma people

The Government, through the Ministry of the Interior and its division for the black communities and ethnic and cultural minorities, considers that policies and programs related to Human Rights and International Humanitarian Law run across all development programs.

This consideration, and the recommendations made by he United Nations High Commissioner's Colombia Office have enabled us to propose the following program for Afro-Colombians and the Roma people, not only to prevent violations of human rights but to improve their standards of living.

1. With regard to legislation, we emphasise that Colombia has perhaps the most advanced provisions in Latin America for the recognition and protection of ethnic and cultural diversity, and the right to equality of all cultures which form Colombian nationality. For this reason, Law 70/93 guarantees Afro-Colombians the following:

a) The right to collective ownership of land: today, there are 2,700,000 hectares deeded to the black communities in the Colombian pacific Region, who have 1,200 community councils which are legal organisations formed by a black community, which through collective title possesses its territory, and is governed by its own administration and by its own system. The territory is inalienable, and title is not subject to prescription or embargo.

   In order to avoid processes such as forced displacement due to violent action, amongst other things, with a consequent loss of territory of the black or indigenous communities and peasant farmers, the Ministry of Agriculture issued Decree 2007 of 24 September 2001 which froze these lands in the name of their owners, along with rural assets, and creative temporary properties and settlements.

b) Mechanisms for the protection and development of rights and cultural identity: In development of this principle, the Government, through the Ministry of Education, the Black Communities Division and the National Teaching Commission (representing the black communities) developed and has, since September 2001 been implementing throughout Colombia courses on Afro-Colombian studies at the levels of pre-school, basic and intermediate education in order to promote inter-cultural dialogue, self-recognition, and the construction of processes of cultural identity.

Another advance has been Law 649 of 27 March 2001, regulating Article 176 of the Constitution, setting up the Special National Constituency for Black Communities in the House of Representatives, with two spokesman, thus promoting the participation of the Afro-Colombian population in these sphere of popular representation. At present, there are 23 lists for the elections on 10 march 2002.

The issue of Law 725 on 27 December 2001, naming 21 May as National Afro-Colombian Day, is recognition of the ethnic plurality of the Colombian nation, and is due to the need for the Afro-Colombian population to recover part of its historic memory, since it was on that date on which slavery was legally abolished in this country. Therefore, commemoration campaigns will be mounted by schools, organisations, NGOs, and other.

Another important advance for the Afro-Colombians, the Roma and the native groups, have been the award of 40 program hours of the public-interest television channel, on which 24 documentaries have been presented to provide information on social, historical, cultural, economic and political contributions made by the various ethnic groups to the construction of our nation, based on the respect for and tolerance of differences.

Another significant advance in legislation has been the preparation of regulations of Article 33 of Law 70/93, which says that "The State will punish and will avoid all acts of intimidation, segregation, discrimination or racism against the black communities, in various social contexts, in public administration at decision-making levels, and in particular in the mass media and in the education system, and will ensure that the principles of equality and respect for ethnic and cultural diversity will be implemented". In July 2002, the regulatory decree prepared with the Ministry of Justice and the Ministry of Communications, co-ordinated by the Black Communities Division of the Ministry of the Interior, will come into force.

The Government has promoted the access of 3,000 Afro-Colombians to higher education through loan-grant programs provided by ICETEX. And 2,000 places have been made available to Afro-Colombians at public and private universities, with remission of fees.

With regard to development programs for Afro-Colombians, the Government has acted in a CONPES Document to define sector programs and projects for Afro-Colombians, and the document contains recommendations for the next government.

With regard to programs for prevention and attention to Afro-Colombians displaced by violence and violations of human rights, the Ministry of the Interior will in May form a follow-up and evaluation Committee with the participation of the People's Defender, the Office of the Procurator General, the Office of the Vice-president, the Human Rights Division, the Public Order and Peaceful Coexistence Division, representatives of the black communities (Human Rights Sub-commission of the High Level Consultative Commission of the Black Communities), the Black Communities Division, the Ethnic and Cultural Minorities Division, and a representative of the United Nations Human Rights Office, in order to draw up effective strategies for prevention and attention; for this purpose, between 15 and 19 April 2002 there will be a national seminar on the situation of human rights and forced displacement among the Afro-Colombian peoples, due to violent action in the city of Buenaventura (Valle del Cauca) in order to establish with those same communities what actions can be taken to overcome this problem. (It would be welcome if the United Nations contribute a proposal, in order to overcome the specific cases mentioned in the Report, since the purpose is to adopt general policies and strategies for their population).

Another important consideration is the project for prevention, human rights education, solution of conflict and forced displacement in Afro-Colombian territories, which this division and the Investment Fund FIP will be developing during the first half of the year in the departments of Chocó (alto Baudó, Río Sucio, Carmen del Darien), Cauca (Zona del Naya), Nariño, Valle del Cauca, etc.

The intention is to strengthen over communities in order to overcome the problems of violence which have arisen on the Pacific Coast. Equally, we will support the civil resistance demonstrations which are being mounted in areas such as Bajo Atrato (Chocó), Cauca, etc.

Also, in the project (technical assistance for institutional management and self-management of black communities and ethnic minorities), which this division will be undertaking with the Afro-Colombians and the Roma, the intention is to undertake social and economic research among the Afro-Colombians and the Roma, in order to strengthen public policy now been developed with the Afro-Colombians, and to work with the Roma to build up policy guidelines which will eventually become programs, projects and strategies for development through a CONPES document.

Current policy guidelines for the Roma are based on:

- The right to ethnic and cultural identity
- The right to promotion and maintenance of an own culture
- The right to one owns education
- The right to one owns forms of social organisation and participation in decision-making bodies
- The right to a dignified life and to equality with other Colombians
- The right to investigate in order to become aware of one's own realities

c. Forced displacement

In the light of the report of the High Commissioner's Office, the Social Solidarity Network considers it important to mention the importance of efforts made during the last year to attend to the population displaced by armed conflict, and to create conditions for their re-establishment.

This is reflected in the formulation of a national policy for attention to and prevention of forced displacement; the instruments of a legal character developed and implemented to enable proper execution of policy, budget allocations to different state agencies involved in policy execution, for the implementation of programs and projects for attention to the displaced population; progress made in the co-ordination between the various State agencies in order to obtain more effective attention and to improve access of the displaced to the various social programs, and the institutional strengthening of the Social Solidarity Network and other agencies designed to improve the capacity of the National System for Attention to the Displaced Population to respond at national and local levels.

Total investments in the Program for the Displaced in the network was $81,000 million in 2001, and attention was provided to almost 59,000 families.

Prevention and Protection Strategy

We agree with the appraisal given by the United Nations Office with regard to the importance of making greater efforts to obtain a comprehensive strategy to prevent displacement, but some explanations need to be made with regard to the areas of competence of state agencies, the

instances proposed for co-operation, and developments in the Social Solidarity Network, directly or in co-ordination with competent agencies.

During 2001 the first session of the National Council for Attention to the Displaced Population proposed an evident need to adopt a comprehensive strategy for prevention and protection, since those 2 elements would run through the entire plan, which would bring together all State policies and mechanisms designed to avoid or mitigate the impact of armed conflict on individuals and groups displaced or under the threat of displacement. In this, the Council defined that a National Prevention Committee would be formed, to be co-ordinated by the Ministry of the Interior with the responsibility of providing a prevention policy for human rights violations in accordance with the presidential Program for Human Rights and International Humanitarian Law.

This operative body, designed to unify policies, strategies and actions in prevention and protection has not yet been officially formed, but the State has been providing attention to warnings of imminent risk or early warnings generated by the Office of the Peoples' Defender from the SAT, by the NGOs or by local authorities and communities themselves, having activated a communications' channel between the competent entities in the System of Attention to the Displaced with the basic purpose of requiring (Ministry of the Interior, the Presidential Program for Human Rights and International Humanitarian Law) that the forces of law and order adopt means of protection to populations at risk, and to neutralise armed groups who threaten the possibility of resistance by communities in those areas. In the same sense, and within the ambit of the Social Solidarity Network, priority has been given to attention to these warnings through the immediate activation of Regional Committees for Attention to the Displaced Population, and contingency plans have become operative. This has meant that humanitarian aid has been able to arrive more quickly.

In addition to these actions, an interinstitutional working group has been set up, with participation by this Ministry and with a permanent invitation to inter-governmental organisations and NGOs working in humanitarian attention or on human rights, to form humanitarian commissions for the verification and accompaniment of populations affected.

As proposed, the direct actions of the Social Solidarity Network in prevention are based on the dynamics of the work of the committees for attention to the displaced. From the analysis of the information generated by these committees, it has been possible to build up a preliminary view of high-risk zones, and support has been ordered for certain communities through the co-financing of productive projects and for the strengthening of organisations.

Specifically, 27 productive projects have been contracted to promote peaceful coexistence, for the benefit of 4,701 families in 13 departments, and 5 psycho-social projects been contracted to benefit 13,520 individuals in 5 departments. Total investment in these projects has been $2,596,315,257.

The comprehensive action plan for Towns Affected by Violence in the social Solidarity Network offers the support for the civil population affected by massacres, raids, attacks, and combat, as a prevention strategy designed to neutralise acts of violence, and to avoid most of the mass movements of population which might flee from the consequences of such events.

Through the humanitarian action component of the Plan for the Towns, attention was provided to 2,549 individuals in 100 towns, were given a fixed sum of money to cover funeral expenses, wounds, disabilities, or loss of assets. The construction and reconstruction component for social and community infrastructure, and the housing reconstruction program attended to 1,322 individuals in 2001.

Finally, a number of analysis of the impacts and consequences of displacement forced by violence agree in indicating that this is associated with processes of concentration of land ownership, and the control of strategic territory by the dominant armed groups. In this situation, the State, in compliance with its constitutional and legal duty to protect, has attempted to generate conditions and mechanisms to secure that the property belonging to populations at risk, and those which have effectively been abandoned by the displaced, as a preventive action to stop displacement, and to effect reparations of impaired rights. In this, Decree 2007/2001, quoted above, is a clear example of the political will which exists to work on in this area.

Progress in the formulation of policy and regulations to improve co-ordination of the National System for Integrated Attention to the Displaced

The reactivation of the National Council in 2001, together with a clear political will on the part of the Government to make progress in regulating and improving the effectiveness of actions taken by the System enabled the following legal instruments to be approved.

- Decree 951/2001, creating preferential access for the displaced to programs of subsidised housing. This decree proposes authors to apply the family housing subsidy granted by INURBE and Banco Agrario, such as the purchase of new or used housing; the improvement of housing earned by a displaced family; the rental or construction of housing in a plot of land owned by the family in an urban area, or rented by it in a rural area.

- Decree 2007/2001 regulates matters related to access to land for the displaced, and mechanisms for the protection of abandoned assets. This Decree regulates registration of assets abandoned by the displaced; sets up a mechanism for the freezing of assets in areas with a high risk of displacement as a preventive measure, and regulates the program addressed to receiving land from the displaced in exchange for other land, for relocation.

- Decree 2562 of November 2001 establishes that displaced children should enter schools free, as and when there are places for them. The municipalities, metropolitan districts and departments will give priority to those displaced by violence in their education sector plan, and in their annual operating investment plan. At the same time, these instances of Government will promote the voluntary participation of community leaders, university students, citizens, and members of communities to reinforce teaching capacity in the attention provided to the displaced. The displaced communities may take part in the organisation of educational aid through investment projects promoted by regional government for the offer of services in this field.

- Presidential Directive 06 gives instructions to several public authorities to strengthen the National System of Comprehensive Attention to the Displaced (attached).

- Presidential Directive 07 promotes support, dialogue and co-operation by the State with NGOs who are engaged in humanitarian activities in this country (attachment).

- Review and publication of CONPES Document 3115 of 25 May 2001, which approves a sector budget allocation to implement the action plan for prevention of and attention to forced displacement. The Social Solidarity network is supporting entities in the system to execute these funds in compliance with the terms of the document mentioned.

Dimensions of displacement

A review of the figures in the report, in account of the fact that they correspond to official information available at June 2001, make it advisable to refer to figures updated to October 2001.

National Figures

- 128,843 individuals in 2000
- 190,454 new displaced in 2001
- In 2000 and 2001 alone, 319,297 new displaced
- With respect to 2000, the number of displaced increased by 48% in 2001
- Since September 1995 and up to December 2001 the Government estimates that 719,297 individuals have been displaced. Of this total, 44% had been displaced in the last two years. 2001 was the year with the largest number of displaced.
- On average, 521 individuals are displaced every day. In 2000, the average was 352. There was an increase of 48% in this average number in 2001.
- Departments, municipalities and regions were affected:
- 819 municipal districts have been affected by displacement. 183 have only expelled them, 120 have only received them, 516 have both expelled and received. In total, 699 municipal districts have expelled population, and 636 have received them.
- 74% of the municipalities are affected by displacement.

Types of displacement

- In mass displacement events, 122,311 individuals forming 26,415 households have been displaced, representing 64% of the total. (In 2000, mass displacements represent 90%)
- Compared to 2000, the number of mass displacements increased by 58% in 2001, from 254 to 403.

Groups affected

- In terms of gender, 49% of the displaced are women, and 51% are men.[7]
- In terms of age, 48% of the displaced are younger than 18 (93,012). And 73% of the displaced are women or children under 18.
- In ethnic terms, 11% of the displaced are black, and 8% are indigenous.[8]

Causes and presumed authors

- Causes: in 47% of cases, displacement occurred due to generalized threats, 23% due to armed crashes, 11% to specific threats, 9% to massacres, 3% to raids on towns, and 1% to indiscriminate attacks; the remaining 6.69% left for other reasons. In 2000, the figures were 53%, 19%, 3%, 15%, 5%, 1%, and 4% respectively.
- With regard to those responsible: 50% self-defence groups, 20% guerrillas, 1.18% armed agents of the state, and 22% more than 2 of these, and 7% not known. In 2000, the distribution was 58%, 11%, 0.13% and 30.51% respectively.

The most recent report of the SEFC for 2001 is attached to complement this information.

Emergency Humanitarian Aid for displaced individuals and families

During 2001 three modes of attention were used, to respond to mass and individual displacements:

- Direct attention from the Regional Units, trough special funds or cash-and-kind resources, from a central level supporting assistants. This mode applied to mass and individual displacements.
- Delegated administration through contracts with NGOs to attend to individual or family displacements; this has achieved greater geographical coverage.
- Strengthening of international co-operation through co-ordination with CHF in cities where it operates, and CICR through the issue and implementation of the memoranda of understanding which sets out the general parameters for co-ordinated attention between CICR and the Social Solidarity Network for Mass Displacements throughout the country, and attention to individual displacements in cities where CICR has an office.

In the context of these schemes of attention, the following results have been obtained:

- Attention to 5,428 families through direct attention, using petty cash funds.
- During 2001, cash funds were created to attend to the mass displacements in the regional units of Guajira, Quindio, Guainina, Arauca and Vichada. This brought a number of regional units to 31. The amounts allocated were between $2 million and $18 million, which may be reimbursed given the level of demand.

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[7] The proportion of man in the total population of Colombia is 49.28%, and woman 50.71%.

[8] The proportion of indigenous people in Colombia is 2%, and the black population is 11% of the total.

- During 2001, coverage of the delegated administration scheme increased both in the number of households and in the number of municipalities. In 2000, the scheme covered 6,500 households, and in 2001 this rose to 14,724; in 2000, attention was provided in 13 municipalities and in 2001, to 53, which concentrates 75% of the population included in the Registration System during 2001.
- Work co-ordinated with CHF has enabled attention to be provided to 2,500 families in Santa Marta, Barranquilla, Cartagena, Medellin, Buenaventura and Valledupar between June and October 2001. The Social Solidarity Network provided the funds for complementary attention, including rent, psycho-social attention, transport subsidy, documentation, and funeral expenses. For its part, CHF guaranteed food assistance and kits for the home, cleaning, the kitchen, and utensils.
- In the context of the memorandum of the CICR-RSS Memorandum of Understanding, funds were optimised in cities such as Sincelejo, Barrancabermeja, Florencia and Valledupar, where there were co-ordinated and individual assistance which avoided duplication of attention. CICR guaranteed the food and non food component, and the RSS provided temporary lodging and psycho-social attention.

The strategies implemented have had a very favourable effect in reducing the time for which attention is required, and according to the most recent information, attention covers almost all the families registered.

Groups requiring special attention

The Social Solidarity Network is aware of the importance of continuing with efforts to consolidate a focus on population and territory which will guide the design and implementation of attention programs for the displaced. The Network has taken a number of different actions, designed to:

- Ensure that information systems generate detailed data on age, sex, ethnic group and disability, and establish in percentage terms the participation of each group in comparison to the total population.
- To identify characteristic elements which make one group different from another, from an economic, social and cultural point of view.
- To explain why each of the groups with which it works is vulnerable (access to resources, ability to live in a new environment, physiological condition, etc.)
- To identify critical powers for access to groups and services provided, and difficulties for equitable access for men, women, indigenous people, Afro-Colombians, etc.
- To establish participatory mechanisms for planning, so that different groups are called upon to express their specific needs.
- To implement specific offers for specially vulnerable groups.
- To train public servants with conceptual and methodological tools to implement this focus.

<u>The Indigenous Communities</u>

The dynamics of armed conflict in Colombia increasingly affect the territories of the indigenous communities, and therefore the number of indigenous displaced is growing.

Given the complexity which displacement acquires in the case of the indigenous groups, the Social Solidarity Network is implementing a joint project with UNHCR and ONIC in order to identify the characteristics of indigenous displacements and actions which should be taken with regard to the processes of prevention, humanitarian aid, reestablishment and return.

As a result of the implementation of the project, we expect that a precise knowledge of the situation of forced displacement in the indigenous groups will be generated in the national and regional indigenous organisations, and in the agencies in the system for the displaced; we also hope that the organisation of the indigenous peoples will be technically and politically strengthened at national and local levels to maximise their capacity to affect public policy in this area, and to manage comprehensive care for the displaced; that the situation of forced displacement among the indigenous populations of Urabá, the Juradó-Bahía Solano Belt, the Sierra Nevada de Santa Marta, the Putumayo and South Western Colombia will be characterised; that concerted strategies and actions will be designed to provide prevention and attention to situations of forced displacement in indigenous communities; and that a contingency plan for attention to the indigenous communities displaced in the Juradó-Bahía Solano (Embera Belt) and Putumayo (Uitoto, Inga, Kofan and Siona).

In parallel, during 2001, the Social Solidarity Network provided humanitarian aid, promoted the formulation and implementation of policies for the re-housing, and for productive project and support for events designed to strengthen organisation as opportunities to consolidate strategies for the prevention of displacement.

Finally, since 1994 the Social Solidarity Network has been working with WFP, the support program for productive development in indigenous communities, on 2 strategic components: the national account for indigenous credit and food for work. In 2002 the intention is to concert the second expansion phase of this program, in order to consolidate and hand over the social-entrepreneurial processes started in first expansion, and to extend it to communities in other areas which have not been attended to by the project. Although this project does not propose attention to the displaced indigenous population, since it guides actions designed to strengthen the organisation of the communities, food security, and support for the formulation of life plans it is considered to be an important strategy with regard to the prevention of displacement.

The Afro-Colombian population

With regard to the Afro-Colombian population, their traditional settlement areas are also being affected by the dynamics of conflict. Many communities have generated mechanisms to resist the assaults of armed groups, based on their organisational strengths and on their cultural roots in the area. However, the generation of mass displacement, and the arrival of Afro-Colombian families in other cities around Colombia indicate the need to understand and strengthen the strategies of resistance of these communities, and to provide attention in accordance with the characteristics and specific needs of this population group.

Thus, through the strategy to strengthen organisations in the Social Solidarity Network "ALLOWANCE FOR EQUITY", support has been given to a good number of encounters, in which local and regional organisations analyse the conditions of context, indicate new courses to be taken, and consolidate strategies and proposals for work which then negotiate with different

entities and instances at local and regional levels. Here, support has been given to a number of events and encounters of associations such as the Atrato Peasant Farmers Association ACIA, the Pacific Youth Organisation OJPC, the Women's Organisation of Matamba and Guasa, the Peace Communities, the Communities of the Lower Atrato which have returned and now resisting, amongst others. It should be noted that this strategy has also supported a number of initiatives of indigenous organisations and authorities who have proposed that as a priority the theme of armed conflict in their territories should be analysed. Among these initiatives there is the First Congress of Organisations of the Colombian Pacific Coast, the assembly of the Eperara Siapidara People, the VI Congress of CRIT, and the meeting of women affiliated to ONIC.

Women Head of Households

Displacement has specific impact on women. If a woman becomes head of the household by being widowed, or by breaking up with her companion, or looses her companion or a child, in addition to forced exile, she has the almost exclusive responsibility for maintaining the economic and affective needs of the family, and these are some of the situations which displaced women suffer from.

The stabilisation of households headed by women in places where the displaced are received have become difficult, since these women have a great responsibility in a new and unknown environment, which have lead to an increase in the number of women living in conditions of poverty in the towns and localities where displaced are received. Therefore, attention to these places with an emphasis on the promotion of women heads of household is a strategy to mitigate the impact of displacement and impairment of conditions of life.

In response to this problem, the Social Solidarity Network has formed a team with the responsibility of incorporating a gender and population perspective in actions. Among the points of progress made by this team are the following:

- To achieve differential treatment for displaced women heads of family.
- To make progress with the proposal for a program of micro-businesses for women heads of household in cities and in rural areas.
- To promote joint action in sexual and reproductive health.
- To promote documentation of women in order to provide them with access to services and programs.
- Psycho-social care

Children

Forced displacement caused by the armed conflict directly affects the child population. The social and economic conditions which the families displaced by violence must face when arriving in a new urban environment, different from their place of origin directly affects children's possibilities of development; they depend on the proper functioning and the dynamics of their environment in order to achieve that development. The economic, social and affective dependence which children have makes them a more vulnerable population due to their relative defencelessness.

Actions to attend to displaced children are the responsibility of the entities in the system which work in the areas of health, education and protection. Thus, the Ministry of Health covers basic and specialised care services, with an emphasis for pregnant women and new born children; the Ministry of Education promotes the insertion of displaced children into the school system, and adopts special education programs for the victims of those displaced by violence; and the Welfare Institute ICBF incorporates this population into its programs, giving an special importance in the school restaurants, and nutrition supplements.

The Networks' population team has been active in facing the challenges of children and their need to adapt through attention which responds to the special needs of this group of the population. The central objective is to prepare patterns of attention by the agencies in the national system to be converted into a legal framework, and thus to become mandatory.

The Social Solidarity Network has developed complementary actions to be executed by ONG Humanitarian Aid operators in the main receiving cities, or through the psycho-social projects in train. Among these actions we make particular mention of food and non-food aid, recreational and cultural activities, psychological and psycho-social attention, nutrition care, and the delivery of nutrition supplements.

With regard to psycho-social attention projects, the Social Solidarity Network is at the moment developing four pilot projects to benefit 550 children. These projects will be developed for the Re-establishment Stage, encouraging interventions to help reconstruct the fabric of society, community organisation, peaceful coexistence, the solution of conflict, mediated by the consolidation of processes of commitment and solidarity of the adult population to the children.

The Displaced Registration System

The Registration System is one of the most important instruments which has been developed for the implementation of national policy for forced displacement. The Government's fundamental principles for the management of the system are to facilitate access for the displaced population; to ensure that the criteria used for the evaluation of declarations are objective and consistent, and to guarantee confidentiality of the information given.

It is important to note that the Registration System -which have modules for declaration, characterisation of the displaced population and follow-up of aid provided- is intended to compile information as a function of the various population groups incorporating variables such as gender, age and ethnic group. So far, the population information included and not included does not reveal any discrimination in the process of declaration, evaluation or registration of specific population groups.

Significant progress has been made in the implementation of the Displaced Register, with national distribution of software, manuals, and forms for declaration, evaluation, characterisation and follow-up to all 35 regional units of the Social Solidarity Network and the Offices of the Procurator General.

Since September 1995, when the Displaced Register came into effect, and up to 26 February 2002, 138,400 households have made declarations, and 106,341 of them have been included in the register (76.8%) during this time. The total number of households making such declarations in 2001 was 59,113, of which 45,427 have been admitted, also being 76.8% of households included in the register for that year.

This rate of growth in the register is not only a product of displacement trends, but also reflects the implementation of attention programs, which encourages the displaced to register. Also, it indicates the achievements in the implementation of a more efficient and decentralised registration system.

The Social Solidarity Network is aware of the need to make greater efforts in disseminating the objectives and procedures for the register, in order to ensure that the entire displaced population has sufficient information with regard to its rights and duties in the process. In this, the Social Solidarity Network has implemented a strategy to bring useful information to the displaced population regarding the process of declaration and registration and to the rights and benefits which the law offers. This strategy is materialised in the publication of posters distributed around the country every month, which are pinched to the walls of mayors offices, churches, bus terminals, market places, shopping malls, clinics and institutions forming part of the system of attention to the displaced.

Confidentiality of information

The Social Solidarity Network, responsible for the displaced register, is aware of the importance of protecting the security and confidentiality of information contained in it.

Therefore, technical measures (physical and software) have been taken to guarantee that information will be kept confidential. All magnetic media in transit to inform any entity must be encrypted, and the Offices of the Procurator General have been ordered to take such security measures as are necessary to send printed documents or physical files from one office to another. Although there is now greater awareness of the importance of this point, many offices allege lack of funds as a reason for not adopting the measures suggested promptly.

The strategies for reestablishment from this comprehensive point of view can be appreciated in two basic dimensions: on the one hand, there is the material aspect which includes all actions designed to satisfy the need for food, health, income earning, and accommodation, amongst others. And there is the other and equally important aspect which brings together actions designed to generate conditions of physical and social security, to overcome the psychological effects of displacement on individuals, families and communities; and to restore a sense of belonging and of "roots"; and finally, to recover and strengthen the capacity of people to organise themselves, and to take decisions in their own interest.

In order to design and implement strategies for the reestablishment, the active participation is required from many national, regional and local agencies, and mobilisation of resources from many sectors. In its work as a co-ordinator of the system for the displaced, the RSS plays an active part in the management of resources required, and has designed a system for the formulation and execution of programs of restoration and social and economic stabilisation.

In 2002, RSS will publish the terms of reference to contract an NGO for comprehensive reestablishment programs, particularly in the areas where high numbers of displaced have been received. Thus, it is hoped that the NGOs as executing agencies will initiate action to solve several problems of reestablishment (training for work, strengthening of organisation, psycho-social assistance, income earning, and housing, etc.) after the initial emergency phase of humanitarian assistance.

Specifically, RSS through the work training program for the displaced by violence is implementing a project for "Work in your Grasp" and a program for the young displaced. These programs are designed to incorporate the displaced into the political and economic life of the country through personal development, by preparation in some art or trade in particular, work, participation, and community organisation. These programs respond to the need of private enterprise with regard to requirements for suitable personnel to undertake new tasks, for which they would find difficulty in finding such persons in the employment market with training for this kind of work. The project "Work in your Grasp" was of benefit to 500 individuals in 6 cities during 2001, and the project for the Training of the Young Displaced benefited 206 individuals in 5 cities, of whom 176 found employment in businesses to which they could be applied.

The total investment of RSS for 2001 in reestablishment programs is $15,000 million, and assistance was given to 15,663 families.

d. Security and National Defence

The challenges which the Forces of Law and Order face to day in Colombia are enormous. The criminal activities of the guerrillas and the self-defence organisations is increasing even faster than the increase in the number of their men under arms, which is already increasing at a very high rate. This mushrooming of irregular groups is the basic reason for the growing degradation of armed conflict in Colombia. The human rights situation is very critical precisely because of the number of indiscriminate massacres, selective murders, kidnaps, extortion, exiles and internally displaced, and of those threatened by all these groups beyond the pale of the law, and this situation is becoming increasingly more acute.

The Government has made efforts to strengthen the Army in order that it may respond effectively to the treats posed by these armed groups to national security and to the security of individuals.

The restructuring and modernisation of the Forces of Law and Order which has been in progress for the last 2 years, continues, and today positive results can be seen in each of the 3 basic objectives "*more and better men*", "*more and better equipment*", and "*appropriate legal instruments*".

With regard to the third major purpose of the Government, the advance has been significant: legislative decrees issued by the President under his special powers, the decree which changes the structure of the Ministry of Defence, the Criminal Justice Code, and other provisions related to the sector, which have been supported by recent jurisprudence.

However, there is one point which has an important effect on, and directly conditions the possibilities for the Armed Forces to obtain more and better results against the enemies of the Colombian people: There is an urgent need for special legislation to face the situation of extraordinary bounds in this country. *This is not, as some have said, legislation for war, but legislation which allows the war to be put to an end.*

More than special legislation, this is a question of defending the rights and freedoms of the immense majority of Colombians, in the face of terrorist threats of a minority of violent armed groups.

This is not the first time that a democracy has appealed to special legal instruments in order to combat the enemies of peace and tranquillity. Other democracies which enjoy universal acclaim, and which are above any suspicion of regarding their legitimacy, recognised for their commitment to the defence of civil rights and political freedoms, have chosen to impose drastic legal measures to combat terrorism effectively. What they have done, with all the support required from their own people, from the media, from the political parties, from their parliaments, and that is to close ranks with a national purpose to stop violent but well organised minorities whose capacity for causing damage and destabilisation runs the risk of becoming uncontrollable.

These democracies[9] like ours, have had to stand and face the dilemma of reducing the rights of these violent minorities, as an alternative to leaving all citizens exposed to criminal pressure from armed groups. They have therefore chosen to restrict the rights of a small number of members of criminal organisations in order to preserve the rights and freedoms of the vast majority.

What is frankly incomprehensible and absurd is that many should accept the application of such measures in those countries as necessary, but at the same time reject the possibility that we should do the same here. What in those countries are measures to defend democracy, freedom, and citizens rights, are here accused of being a violation of International Treaties, of threats to freedom, and of an attack on human rights. Even more absurd is the fact that if we agreed that the action of terrorist groups in Europe has represented a threat, none of them has ever had the capacity for violence which characterises the armed groups in this country.

It is also inexplicable that what is accepted and justified as necessary to counter much less serious situations such as those in Europe, are here feared and rejected, and there is criticism when we try to apply much less drastic measures in a much more serious situation.[10] But it is

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[9] It must be noted here that we are not talking about small local third-world democracies, but some of the strongest democracies in the industrialized worlds. These include Britain, Germany, France, Italy and Spain. Some of them have even taken exceptional measures to combat terrorism, and regularly adjust their legislation as the methods used by the armed groups change their modus operandi.

[10] To give just some examples, the illegal self-defense groups in Colombia have murdered during the last year 3 times as many people as the ETA in Spain in more than 30 years of their existence. This last year, the guerrillas have mounted dozens of times more terrorist attacks than

even more incomprehensible that in the face of daily massacres and weekly terrorist attacks, there are many who cry out for more convincing actions by the Forces of Law and Order against the violent groups, and accept that much stronger measures are needed, but when a detailed examination is made, and specific measures are to be taken, then the unfounded doubt and forced fears appear as the enemies of democracy, and they become the masters of the minds and spirits of certain individuals.

We must at no time loose sight of the fact that the vast majority of violations of International Humanitarian Law today in Colombia are the work of non-state agents, the outlawed groups, the guerrillas, and the illegal self defence groups. Local and international organisations have recognised that the events in which members of the Forces of Law and Order have been compromised by such conduct have been falling steadily during the last few years, and that therefore only a very small number of these violations of human rights are attributable to the agents of the State, upon whom the full weight of the law will always fall.

In addition, recent reforms to the Criminal Justice System are still further guarantees of the transparency and speed with which the cases placed before courts are managed. In effect, this reform has defined crimes related to military service, and placing torture, genocide and forced disappearance always in the province of the ordinary courts; the principle of due obedience has been regulated; the functions of authority have been split between investigation and trial; the right to appear as a civil party in cases has been established; a system of accusation has been introduced, and the participation of the Procurator's Office has been guaranteed at all stages of process. All these measures are designed to avoid possible abuses which members of the Forces of Law and Order may commit in pursuit of their functions, and to punish them should they occur, and have placed Colombia amongst the countries with the most advanced system of criminal justice.

These incontrovertible facts are the result of a sustained policy to promote and defend human rights, implemented by the Colombian State. The signals sent by this administration are absolutely unequivocal: no type of compromise by action or inaction by the agents of the State in violation of human rights will be tolerated.

This can be summarised in a speech made by the President last November, at a military ceremony in Cartagena, at which he said the following:

> *"The Government has for some time been making an evaluation to determine whether it is necessary to promote certain changes of a legal nature in order to provide more effective instruments to the authorities in their struggle against organised crime, and in particular against crimes such as kidnap and terrorism.*
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> *We have found that it has been necessary to develop certain existing powers under the Law and the Constitution, which have not received due attention. Therefore, we will be proposing to Congress that it regulate the administrative powers to effect detentions, and to*

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those made by the IRA in Britain over decades. The number of kidnaps committed by the outlawed groups in Colombia is hundreds of times higher than those made by the Red Brigade in Italy.

allow the term of 36 hours stated in the Constitution to be complied with without loosing the effectiveness of operations of the Police or the Army, and that the same will happen when a person is arrested in flagrant. Without doubt, special measures will be necessary to combat the crimes of kidnap and terrorism, in order to adapt legislation to the special nature of this crimes, to the criminal organisations which commit them, and to the places where they occur. The regulations for investigation and action by the Armed Forces to counter to challenge a criminal who forges a document in Bogota cannot be the same as those which apply to others with a great capacity to defy the power of the State in remote areas.

We also believe that in the struggle against these crimes we require joint action from all agents of the State, and therefore we will be asking the Prosecution Service to provide information collected in investigations which may be useful for the Government in its fight against crime. In order to avoid inconvenience to the actions of the Forces of Law and Order, which has been hampered by rash denunciations which the Office of the Procurator must investigate, we should propose a special procedure within the Procurators' Office to pursue disciplinary processes against members of the Forces of Law and Order due to acts taken in the course of military or police operations against organisations of criminals engaged in terrorism and kidnap.

We will ask Congress to authorise the creation of special public order zones when circumstances require to guarantee the effective action by organs of the State. In these areas, all of Forces of Law and Order and all the intelligence organisations of the State will act under a single commander, who in turn by delegation from the President, may issue orders to be applied preferentially and immediately, over and above those of Governors or mayors in the area.

At the same time, we believe that it is necessary to adopt special procedural regulations for those being tried or convicted for the crimes of terrorism and kidnap, in order to prevent them from enjoying the benefits which would allow them to evade the action of justice.

If necessary, I will promote a constitutional reform to impose life imprisonment for crimes of lesa humanitas, and to equip the Armed Forces with sufficient operational instruments as required to conduct an effective combat against terrorism and kidnap, such as the possibility of exercising the functions of the Judicial Police, and in exceptional circumstances, and with due judicial controls, to effect detentions, raids and telephone interceptions.

Contents and matter related to the Law of Security and National Defence

The Law of Security and Defence does not give the Forces of Law and Order additional functions to those assigned by the constitution; it simply broadens their operating powers in order to achieve real and effective compliance with powers which they already hold.

Content

In the face of the proposals of the draft law, the elected Government has legitimately decided to support regulations on the organisation and functioning of national security and defence, which, it must be noted, has been the project of the initiative of certain members of Congress, also elected by the legitimate vote of the Colombian people.

The provisions of the law help to guarantee the development of institutions which is required for the defence sector, and provides the Forces of Law and Order with the powers they require to improve their performance in combat against the criminal action of the self-defence groups and the guerrillas.

The Law intends to organise and update certain legislation of previous years which, reasserting the political and strategic management of the President and the Ministry of Defence, was in the process of consolidating the transition which has meant that as of 1991 a civilian has been appointed Minister of Defence.

At the same time, the intention has been to give a legal framework to national security and defence within an organised system which will allow, through planning, the establishment of objectives, priorities and possibilities for execution in the short and long term, involving the Forces of Law and Order and the various instances in the State, both centrally and regionally, with regard to decisions which affect the sector.

The Forces of Law and Order

The functions of the Forces of Law and Order[11] are described in Articles 217 and 218 of the Constitution. The Armed Forces has the prime purpose of defending sovereignty, independence, the integrity of Colombian territory and constitutional order. The prime objective is the police is the maintenance of the conditions required for the exercise of public rights and freedoms so that Colombian citizens may live in peace.

The planing of Sector Defence resources

There are a series of provisions of Budget Law which, in accordance with higher norms on the matter, and in conjunction with the intention of the provisions of law mentioned above, reassert the importance of planning sector resources, and this will respect the budgetary autonomy of the Police, determining the need for the process to be directed by the Minister of Defence. At the same time, there is also a prohibition which frees the sector from a series of restrictions in matters of public expenditure, which limited promotion in the Forces of Law and Order, and increases in the numbers of their members which the Government desires, and the equipment of the new members of those forces.

[11] The Forces of Law and Order are composed of the Police and the Armed Forces, which are under the authority of the Ministry of Defense, under permanent delegation from the President.

Co-ordination between State agencies

There is a series of provisions which establish duties of co-ordination between agencies of the State. With regard to the Prosecution Service, an instrument has been adopted to allow other authorities to have access to information in the hands of the service, and which will therefore allow the Forces of Law and Order to act promptly and to continue effectively with their operations. There is also a kind of control on the performance of the Prosecution Service and of the courts with regard to crimes against the Constitutional Order. This is in furtherance of Section 251.5 of the Constitution, according to which the Prosecution Service is required "to supply the Government with information on investigations in train, where necessary for the preservation of public order". This at no time, and from no point of view, implies the subordination from a judicial instance to the executive.

Theatre of Operations

The intention is to adopt legal instruments which will guarantee the prevalence of the orders of the President, in matters which concern the security of constitutional order, sovereignty, independence, the integrity of territory, and which facilitate the co-ordinated action of the State in all places, where Governors and mayors lack protection and instruments to face special public order situations. Therefore, there is a provision that for special circumstances and for very limited times in theatres of operations, in which there will be unity of command in the various forces in action, the President may delegate a military commander with powers to take operational control to carry out orders, which, based on the reasons for the alteration of public order, must be executed. This, without prejudice that the other actions of Government, the powers of local authorities are conserved, and therefore with that, the popular will expressed in elections.

Mobilisation

Provision was made for a serious of norms on mobilisation. Concept is defined in the perspective of the participation of national powers, in terms in which the law conceives, in order to combat emergencies originating in public calamities or natural disasters.

The Government is working on the regulation of aspects related to mobilisation included in the Law of National Security and Defence.

Judicial Police

Finally, there is a provision which is intended to provide the powers of Judicial Police to the Armed Forces, so that they may respond more efficiently and effectively to challenges imposed by violent groups. However, it must be repeated that the concept of exceptional treatment in the case of this powers is duly developed, such that their application may only be ordered when in circumstances in which the law clearly indicates that they may be, and on the suppositions established in the law, without ignoring all the controls provided by the authorities from being exercised.

- It is a subsidiary power, such that it may only be applied in events in which the Prosecution Service, for specific reasons, does not have a group available to accompany the operations of the Forces of Law and order permanently.

- It is a power which must be assigned by the Attorney General, such that it is not proper to the power of the Armed Forces, and is implemented through a special group which is duly trained and dedicated to act as judicial police.

- The powers of judicial policy will be made with precision, in accordance with the criteria of the Attorney General, and as a transitory measure.

Offences in flagrant (Article 58)

The definition of offences in flagrant is of general application. It was developed in accordance with the guidelines in international instruments[12] and internal legislation[13] in general.

The purpose of this provision of law is intended to avoid loosing the effectiveness in police or military operations when offenders are captured in flagrant. The law says that the person captured must be placed at the disposal of a court through a communication to judicial authorities immediately, orally or in writing, so that the offender is not arbitrarily detained. This also allows the detained not to be left free because the operational conditions of the Forces of Law and Order in transport, or in terms of geography, prevent delivery of that person before the time allows to do so expires.

It should be noted that when an individual is placed at the disposal of the competent authorities this does not necessarily imply the physical delivery of that person upon capture. The provision of law makes it clear that there is a correct interpretation of the article of the Constitution, since this imposes obligations on the public servant who places a detained at the disposal of the Courts from means other than physical delivery, where this is not possible.

The duties of citizens

It is a duty of all citizens to support the authorities to maintain national independence and integrity (Article 9 of the Law):

The scope of this duty is limited, and must be placed in the framework of the Constitution. Therefore, the law refers to the duty which all Colombians have to support legitimately constituted authority such as that mentioned in Section 95.3 of the Constitution, and references made to the special duty of Article 216 of the Constitution.

Finally, it should be repeated that the Government supported this Law because it considers that the strengthening of the capacity of the State to respond to criminal organisations is an essential

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[12] The Universal declaration of Human Rights Article 8; the international pact on civil and political rights, the American Convention on Human Rights, the Convention on Children's Rights.

[13] Criminal Procedure Code and Criminal Code

requirement for the recovery of the monopoly of the use of force, and to make progress in the peace process and to provide effective guarantees of individual rights. However, given that its text has been challenged before the Constitutional Court, the Government honouring its tradition, will abbey by the decision of that court, when given in due course.

e. Prison Policy

On this subject, the Government will present several points of view with regard to the Report of the High Commissioner for Human Rights, and as a preliminary observation asserts its intention and conviction that it must prevent and eradicate any violation of human rights within the prisons, and makes it clear that the participation of all national and international agencies engaged in this area is fundamentally necessary to find a solution to the situation, and to remove once and for all kinds of violations of fundamental rights, provided that this participation is constructive and makes viable proposals, such as those which the Government itself has been proposing and implementing.

The intention of the Government has at no time been to deny or conceal the realities of life in prisons, and on the contrary has reported the typical situation which Colombia's prisons face to the agencies of control such as the Congress and the Office of the People's Defender, amongst others, making all Colombian society aware of the difficulties which the prison system is undergoing, exposing realities so that in the exercise of the constitutional principle of solidarity, they may supply ideas, solutions, and assistance in order to resolve the situation.

There should be no doubt about the performance and commitment of this administration in the search for solutions to improve the quality of life of prisoners, and that significant results have been obtained.

It is not true that there is systematic violation of human rights in the prisons, since this administration has implemented programs for work, education, health and sport of great importance. At the same time, within the training given to the prison guards, and administrative personnel responsible for the application of resocialisation programs, emphasis is being placed in aspects related to the protection and defence of human rights of the prison population.

The Government, aware of the problem of governance in certain of the country's prisons, has undertaken to expose the main causes of this fact, and as a conclusion it has been found that overcrowding, the outdated construction of the prisons, the corruption of the guard service and of administrators have been the main causes of this serious problem, which is according to the experts contracted by the Office of the High Commissioner and the Government, the main cause of the violation of human rights in the prisons.

Therefore, there has been an urgent need to attack these causes of the problem, by the design of a policy for the construction, remodelling and reconditioning of the system, and the academic preparation of new personnel in the guard system has been changed, attacking the problems detected at the root. Also, in the interest of removing corruption among administrative personnel, the Prison Service INPEC has set out to obtain an ISO 9000 Certification, which as is known principally attacks the phenomenon of corruption in certain procedures.

Other measures have also been taken such as the removal of 300 guards from the service on the grounds of convenience, the signature of an agreement for the Improvement of the Prison System with the US Government, one of whose principal objectives is to include the systems to combat corruption inside the service, and the creation of an anti-corruption hot line which leads directly to the INPEC Headquarters, through which prisoners and members of their families may denounce dishonest acts and violations of human rights. With the same purpose, a Complaints and Claims Office has been created within INPEC, which in addition to reducing the commission of punishable offences inside the prisons should also be promoted. These have been clear and effective policies in the struggle against this serious problem.

It should also be added that the New Uniform Disciplinary Code (Law 734/2002) which comes into effect next May, contains a special type of serious offences for public servants in positions of management, administration, control or supervision of the prisons.

With regard to the **respect for the dignity of prisoners**, actions are being taken to secure this, such as that officials responsible for the supervision and treatment of prisoners are being in training so that their actions will provide the good treatment due to any person, with respect, and in accordance with the postulates of the national and international provisions on the subject.

Further, there have been constant efforts to manage the situation, which can be seen from the priority decision to construct new prisons, and to adapt existing ones, in the design of the Strategic Plan for Prisons, linked to the National Development Plan which is being implemented by CONPES Document 3086 of 14 July 2000 prepared by the Ministry of Justice, INPEC and National Planning Department, in compliance with Finding P153/98 of the Constitutional Court.

It should be noted that another of the benefits of extending the prison system is to comply with a separation which must exist between the convicted and the accused, which prior to the construction of the new prisons and remodelling of the existing ones was impossible. Now, however, we see that in prisons such as the Modelo in Bogota and La Picota, the convicted are classified separately.

Studies made indicated that overcrowding is the principal problem which affects the Prison System, and that the greatest deficit in places refers to the prisoner population. Therefore, a priority decision was taken to construct medium-security prisons and to improve existing prisons throughout the country, as specified in the chart presented for the report which the Office of Human Rights presented in recent months.

Within the Ministry of Justice there is a division of Prison Policy, basically focused on adopting strategies which permit an effective and efficient functioning of the prison system, attending to the minimum needs of the prison population. In effect, the Ministry has designed and implemented policies designed to provide prisoners with conditions which allow that the depravation of their liberty to be conducted in a framework of respect for human dignity, so that hand-in-hand with the construction of new prisons, due treatment is afforded to them.

In effect, the Ministry of Justice and the Prison Service INPEC have been greatly concerned by the prison problem, and for this reason a process of modernisation has begun within INPEC,

basically designed to allocate the necessary infrastructure, to update, modernise and humanise all the procedures used within the prison system.

All of the foregoing, in harmony with the overwriting philosophy of the Constitution and Law with international treaties and pacts which demand strict compliance with human rights and the establishment of sufficient guarantees of protection. Thus, human dignity is the premise and guiding principle which orientates the execution and decision-making in prison policy.

Finally on this point, it should be mentioned that a reform to the Prison Code has been proposed since the present regulations could be improved. It should be made clear that prison regulations are a broad and effective response to the needs of the prisoner and society, and contribute to the achievements of the ends of the system as imposed by the Constitution on the State within the framework of the Social State of Law, based on human dignity and on the respect for fundamental rights of all citizens.

Since the Ministry of Justice found that a high percentage of prisoners do not have defence Council to protect their rights and interests continuously and diligently, it signed an inter-institutional co-operation agreement with the Prison Service INPEC and the Office of the People's Defender whose objective is to co-operate in the performance of constitutional and legal functions for the Office of the People's Defender, and in particular for the Public Defence Council allocated to the Public Defence Directorate, which will help to ensure that a technical defence is provided, designed to provide effective protection for fundamental rights of users, and to the effective use of legal benefits available to prisoners around the country.

Further, and in accordance with the instructions of the Constitutional Court in decision T847/2000, 9000 prisoners have been transferred from Police stations to the prisons. At the same time, measures have been taken to solve any problem occurring in these cases, but greater efficiency by the police force, combined with the problems of logistics of INPEC have made this task difficult.

Criminal conduct against prisoners is being investigated by the competent authorities, and by the internal disciplinary control office of INPEC, whose responsibility is to obtain the ISO 9000 certification, and further, sound mechanisms have been established for denunciation to control irregularities.

A number of administrative measures have also been taken to regulate visits to which the prisoners are entitled, imposing certain regulations to control their admission, but at the same time this control has been made more dignified with the introduction of modern equipment which avoids direct contact between the guard service and the visitor. The equipment has been allocated mainly to the new prisons, and use is now being extended to the main existing prisons as circumstances permit.

Among the preventive measures adopted there have also been surprise searches to locate and seize prohibited items, effected for the first time in many years in the Bogota Modelo and Picota prisons, with significant advances, such as that searches are conducted solely by INPEC personnel without the aid of the Police. This makes it possible to conduct searches more often and hence increases security and governance in the prisons.

Where necessary, the government has requested and authorised **the forces of law and order to enter the prisons** in order to protect the lives and safety of prisoners and prison staff alike. These forces, or the special Prison Security Unit, have intervened to control situations of violence in the prisons, acting with great restraint and respect for human rights to do their duty.

With regard to the self-styled **political prisoners**, it should be explained that the Criminal Code only classifies a person tried or convicted of rebellion, sedition or riot as "political", and this cannot be extended to refer to members of outlawed groups deprived of their freedom for the commission of common crimes.

With regard to the Valledupar prison, it can be said that this was the first to be built as a true penitentiary with modern techniques and specifications which follow international models; and it should be remembered that before that hospices, hospitals, monasteries and other kinds of property had been used as prisons when circumstances required, with only minimal adaptations; thus most of Colombia's prisons were of this kind and lacked the proper infrastructure and living conditions required.

In the matter of **prison food** INPEC has set up audits to secure good quality food and has formed food committees with prisoners from each wing of a prison and an INPEC officer as members; and there are constant medical and laboratory examinations of those responsible for preparing food.

There is a small hospital facility, equipped with items required for emergency treatment, to provide health services at the prison.

Contracts have been signed with hospitals across the country to attend to prisoners, and this has extended healthcare coverage.

For the same purpose INPEC has taken out an insurance policy to attend to high-cost conditions, and health professionals have been engaged to provide services in the prisons (including Valledupar).

Important progress has been made with regard to the prisoners' right to health:

The Ministry of Health obtained an appropriation of $5,500 million to attend to health requirements nation-wide, through an agreement with the SIAS comprehensive health system.

This action was complemented with the budget appropriations of INPEC itself in establishing a health social security system for all prisoners in all prisons, as follows:

a. Hiring of health professionals to work directly in each prison.
b. B. Equipping of pharmacies in each prison, with medicaments required for Level I outpatient treatment in the mandatory health program POS.
c. To perform the procedures and activities whose technical complexity cannot be provided on-the-spot in prisons, INPEC has formed a wide network of good quality from health services providers through contracts with most public hospitals in the country located in the same town or city as the prisons.

d. Insurance to cover economic risks arising from high-cost conditions, corresponding to Level IV care in the POS.
e. Delegation of all co-ordination, audit and supervision of health service providers and medical professionals for each of the prisons, under the responsibility of the INPEC Health Division.

Thus, the entire prison population is guaranteed the provision of all levels of health provided in the Mandatory Health Plan of the Social Security regime.

– In 1999, INPEC had funds of $11,102,143,332 for developing comprehensive care health at various levels of complexity (I, II, III, and IV).

Level I includes: interventions and procedures: out-patient care: general medical consultation, initial care, stabilisation, solution or referral to the patient to emergency treatment, dental treatment, radiology, essential medicaments, cytology, actions within and without the prisons for the promotion, prevention and control, and surgical assistance.

Level II: out-patient care for a specialised nature, defined as non-surgical, non-procedural and non-interventionist medical attention, provided by a specialist medical professional in one or more branches of the medical science, in which there has been cross-consultation or referral by a health professional.

Level III, which is specialist consultation as for Level II with the following additional procedures: specialised clinical laboratory, radiology, special examinations of the abdomen, joints, neuro-radiology, cardiovascular respiratory treatment, ENT treatment and ophthalmology.

Level IV: High-cost and catastrophic illness: heart conditions (aorta, thoracic and abdominal), vena cava, lung vessels and kidneys. Conditions of the central nervous system, AIDS infection.

With regard to the hiring expenses for services in 1999, $600 million were allocated to the contracting of basic health professionals across the country to cover the first level of complexity.

Funds totalling $1,420 million were also allocated to the purchase of medicaments, health and hygiene materials, dental materials and clinical laboratory.

In 1998 the SIAS Project appropriated funds for $1,894,753,844, which were executed during 1999 in medicaments, the equipment of prisons, etc.

In 2000, after negotiations with the Finance Minister had been exhausted, the INPEC budget was aided by $11,494,790,000, as part of the implementation of the Health System in the Prison System, which provided a full subsidy for the cost of health care for the entire prison population.

Aware of the need to improve health services, studies are now being made together with the Ministry of Justice on the possibility of contracting Health Providers (IPS) to secure direct coverage of services to the second out-patient level of the Mandatory Health Plan (POS) and all services which can be provided in the context of the prison infrastructure.

In 2001, the following were obtained:

a. 99% health coverage
b. 97.5% of prisons covered by contracts with Health Providers and levels I, II and III.
c. 100% of prisons covered by funds for the purchase of medicaments and health and hygiene materials.
d. 100% of prisons covered by medical equipment
e. 98% execution of funds allocated by contracts with health entities.
f. The agreement between the International Red Cross and INPEC for care to the prison population in precarious humanitarian conditions.
g. An agreement between the United Nations-AIDS-INPEC, for the promotion and prevention of HIV and AIDS infections in the Modelo and the Picota prisons, with 830 prisoners.
h. Program for early attention to breast cancer by the International Red Cross-INPEC Agreement, currently with a coverage of 53% of female prisoners.
i. A policy against high-cross conditions to cover 100% of cases at Level IV (ruinous and catastrophic).
j. Fumigation and rodent elimination in 90% of jails.
k. Implementation of individual records of Health Services RIPS.
l. A survey of epidemiological levels of health statistics.
m. Vaccination against Hepatitis B amongst 100% of the prison population.
n. Design of sanity conditions of the new prisons on the basis of essential requirements.
o. The section of the proposal to outsource the health service from the Asistir Consortium.
p. Preparation and approval of 17 health procedures in the Quality Assurance Program ISO 9000.

With regard to **education programs** designed to re-socialise and train prisoners, and the humanisation of the prison establishments, it should be noted that INPEC and basically its Employment Promotion and Training Division has as one of its priorities the reinsertion of prisoners in society, through productive activities in farming, industry, craft work, and sundry services.

Agricultural productive projects are designed to occupy and train prisoners who work in the INPEC farms across the countries, and to obtain economic resources for them and for their families.

In order to decongest the prisons, and to offer occupation and training for **prisoners of peasant origin**, there is a project with the Ministry of Justice and INPEC to "create a Pole of Regional Development for the Young with the establishment of a new Agricultural Prison Colony in Vichada", which will offer occupation over an area of 2,500 hectares in the long term, in 50 groups each of 500 prisoners. Document CONPES 3086 of 2000 authorised a budget allocation for the construction of an Agricultural Colony.

The activities to be undertaken there fall within the framework of the raising of cattle, pigs, poultry, worms, the production of organic fertiliser, bio-digestors for the processing of organic waste, and the production of gas and forage production.

5,000 prisoners are benefiting from farm activity, industrial and sundry service activities, and they in addition to serving their sentences receive a daily wage consisting of a bonus or an economic incentive for their work.

The intention is that by increasing the farming areas (with crops and livestock breeding) and the engagement of private enterprise into these programs, the occupation of prisoners will be increased by 40%. At present the Prison System has 50,165 prisoner, 5,000 of whom are engaged in farm work.

Technical advise and instruction for prisoners who work in these farming activities are provided through a Co-operation Framework Agreement signed with ICA, CORPOICA, INPA, INAT. The intention is that this Agreement will be extended for a further 3 years.

With this program, 560 prisoners have benefited from the instruction and technical advisory phase.

Through an agreement between SENA and INPEC, 4,500 prisoners annually have benefited from theoretical and practical instruction in farming and industrial activities.

At the same time, there is support with regard to instruction and training for prisoners from UMATAS, and regional agricultural departments, Federations of Cocoa and Coffee growers and regional universities.

INPEC will sign and inter-institutional agreement with SENA designed basically to offer theoretical and practical instruction for prisoners working in workshops, farm installations and sundry services in the 170 INPEC establishments.

At the same time, the intention is to increase occupation levels by using installed capacity in the following areas:

LIGHT INDUSTRY

Bakery
Wood products
Metal working
Leather products
Graphic art products
Classification and recycling of refuse
Garment making
Dairy and meat production
Processing and packing of water for human consumption
Processing and packing of coffee

FARMING

Fish-breeding in tanks
Pig-breeding

Rabbit-breeding
Cattle-breeding
Minor species breeding
Vegetable production
Industrial crops (cocoa, sugar cane, coffee)

SUNDRY SERVICES

Building repairs
Community health and hygiene
Internal messenger service

At present, an average of 23,747 prisoner are occupied in these areas across the country, in the 170 INPEC centres. The intention is to provide attention to the 12 largest prisons, in which 50% of overcrowding occurs, with a high level of unemployed prisoners.

Arrangements are being made to enter into a new entrepreneurial agreements with the public and private sector, in order to generate the supply of goods and services using the labour of prisoners for productive projects in different modes, both within the prisons and outside.

In addition to the application of the methods of reading an writing and basic mathematics, programs are also being developed in teaching and learning in literacy, and primary education, and it is hoped that this method will achieve wider coverage of prisoners instructed in these basic areas.

In non-formal education prisoners are being prepared and trained for validation of their State High School Examination "ICFES", and to increase activities of academic preparation of prisoners.

In order to provide options in training, encouragement has been given to the development in courses in bakery, mechanics, garment making and carpentry, taking advantage of the capacities and characteristics of the region in which the prison is located, and with the co-operation of entities such as SENA, local education authorities, and technical-industrial schools.

Prison work has been developed through two modes of administration:

1. Direct administration. This occurs where the prison administration makes productive resources of the State available to prisoners as required for the conduct of industrial or farming activities, and services of an entrepreneurial nature; and controls economic and social development of those activities.

   In this mode, the Development and Treatment Division of INPEC annually promotes guidelines to create or reorganise farms, workshops or services with the criteria of improving the exploitation of existing resources and obtaining income and social benefits for the prison.

This scheme of work has allowed 1,500 prisoners to work under direct administration in workshops and farms, and 400 in services (the cleaning prison yards and offices, the maintenance and care of the premises, vehicles, monitoring, orders, etc.)

2. Indirect administration. This occurs where the administration of the prison places the resources of the prison at the disposal of individuals or legal entities for them to engage in productive activity, using prison labour. In this case, the control of manufacturing and training lies directly with the private interest involved.

   The work undertaken by prisoners with individuals or businesses must first be authorised by the director of the prison, and contracted as required by the law.

   This mode of operation occupies some 2,500 prisoners in kitchens, workshops and farms in the private and public sector. In this mode, there is outside work as authorised by prison service regulations for prisoners who can be authorised to undertake farming or industrial work, with businesses or individuals of recognised honesty.

Another mode of work is that performed by prisoners independently. This is a predominant mode in our prison system, and takes the form of craft work or technical work such as wood carving, the doll-making, tailoring, painting, sculpture, painting, sculpture, pottery and products in vegetable fibres. It is estimated that this typo of work occupies some 13,000 prisoners in almost all prisons for which INPEC is responsible.

Likewise, education at basic, primary, secondary, superior and technical levels is being promoted to make prisoners productive people.

With regard to **sports, recreation and culture**, encouragement has been given to the practice of sports and the development of games, recreation, and artistic and literary activities and to reading, by providing opportunities for integration, healthy competition, and good use of free time.

These activities are developed in the context of available resources, and conditions of space available, inter-institutional support and the interest of the prisoners themselves, for the establishment of time-tables which are intended to combine the occupational routine with the practice of sports and open-air recreational activity or indoor games.

Within the cultural aspect, the creation and promotion of theatre groups, musical groups, painting, sculpture, and literature associations has been strengthened, as a preparation for the competitions which the regional directors and the headquarters of INPEC arrange annually.

With the library programs, reading is being promoted and encouraged through a loan system to cells, to wings, or by making use of spaces available for such activity within each prison.

Also, and in response to concern for the prison population belonging to different **indigenous groups**, social care programs have been introduced in 15 prisons, including Leticia, Florencia, Popayán and Caloto.

It must also be acknowledged that there has been an **increase in severity in criminal legislation** which has produced an increase in the prison population. This has been due precisely to the fact that the prison system is not the only means but it is a basic mean of combating criminal activity, since crime levels have begun to affect aspects of such singular importance to the State as life and personal safety. This necessarily requires the adoption of legislation to respond to it, specially if it is remembered that prevention in general is one of the principal functions of confinement.

While this has meant an increase in the number of persons deprived of their freedom, there are administrative, judicial and political benefits, and programs which have been implemented to ensure that prisoners are treated with dignity, such that they may little by little be reinserted into society.

On this point, it is important to mention that the regulation of the **administrative benefit** of 72 hours was not due to a purely arbitrary acts, but to the need to respond to the increase in escapes reported when it was granted. It should be remembered that while it is important develop prerogatives which will allow a person deprived of his freedom to return progressively to his social environment, its exercise may in no way imply the neglect of obligations which apply to it, and therefore there was an absolute and imperative need to exercise greater control in conceding that benefit.

In addition, the Ministry of Justice has been specially careful to develop actions designed to strengthen procedures which permit the **solution of conflict by ways other than the courts**, such as conciliation or the "Houses of Justice" program which principally benefit those in positions of economic disadvantage, and bring justice to such persons.

Finally, and in general, it is the intention of the Government through the Ministry of Justice to work on the will of the Office of the United Nations High Commissioner for Human Rights to co-operate with these institutions in order to improve the prison situation in areas as sensitive such as that of human rights; but it does not agree with the method which has been used to produce and publish the study submitted, basically since, as said initially, it ignores the enormous efforts made by the authorities.

f. Economic, social and cultural rights

The Government, with the intention of improving the conditions of life of the citizens of Colombia has been implementing policies and programs to guarantee their economic, social and cultural rights.

In effect, programs have been developed in the Social Support Network for attention to the poorest and most vulnerable groups, those in Levels I and II of the Benefit System SISBEN:

a) **Families in action** receive subsidies for health and education of children, and payments have started in 108 municipal districts with a cover of 26,926 families.

b) **Employment in action** subsidies for community projects, 2,044 projects have been approved, reaching 87,800 beneficiaries; 469 projects have already begun, and already benefit 18,703 individuals;

c) **Youth in action,** subsidies for technical capacity and in-work training. 4,291 places have been awarded for the Pilot Project in Bogota, 16,546 potential beneficiaries have registered in 6 cities between 1 November and 14 December. The Social Support Network for rural areas is now being designed.

With regard for programs of attention to the displaced by violence in Colombia, mention should be made of the **Food Security Program**, which has supplied 31.6 million daily rations to 227,000 persons in 2 years. The **Indigenous Program** for food security and integrated local development, implemented in 15 indigenous settlements in 9 departments, formed by 203 productive projects in farming and the marketing of groups; the **Social Development Plan for Tierrandentro** which seeks to resume productive activities, restore cultural identity and social cohesion in that region; the **integration of the displaced into social network and employment markets** and the **prevention and attention to forced displacement**, designed, managed and co-ordinated by the RSS.

With regard to **education for the displaced** the Ministry of Education has issued Decree 2562 of 27 November 2001 "to regulate Law 387 of 18 June 1997 with regard to the provision of public education services to the displaced by violence, and other measures", regulating the access of the displaced school population. The Ministry co-ordinates with the regional educational authorities in actions designed to secure the provision of the service and specialised training of teachers attending to children in the displaced population, and focuses its intervention in cities and municipalities with the highest levels of displacement as signalled by the Information System of the RSS and the Office of the President.

With the technical co-operation of the OSA and UNESCO, the Ministry of Education has advanced teacher training processes to provide education for displaced children, and for children disengaged from armed conflict, and to design special materials to support these processes with content intended to form teachers in the management of psycho-affective aspects of children, and the reconstruction of the fabric of society.

The following projects are currently being considered by UNESCO:

- Basic Education for Displaced Adults and Youth, in four municipalities in the Department of Cundinamarca.
- The Teacher Training for Those Attending to the Displaced Population in the Departments of the Caribbean Coast.
- Formation in Values through the Artistic Education for Teachers Attending to the Displaced Population in Bogota and Soacha.
- Education Assistance to Displaced Children and Youth in Bocas del Atrato.
- Palabras Memoria- Palabras Vida
- Program for the Education of the Displaced. (UNESCO support is being requested for the modernisation of non-budget funds).

With regard to the **labour market**, National Planning Department records that there has been favourable results throughout 2001 which reverse the growing trend to unemployment. Unemployment fell from 21% in January to 16.4% in December in the 13 major cities, and in national terms from 17% to 13.5%. During 2001, the number of employed increased by 923,000 at national level, and 653,000 in the cities. Unemployment was reduced by 643,000 at national level, and 365,000 in the 13 cities. Nonetheless, the scenario is still critical, and the Government continues to be committed to the development of policies to generate employment.

With regard to the **right to housing**, we note that during 2001 the entities involved in housing policy allocated around 75,000 social housing units with an investment of $575,000 million. Special mention must be made of the work of INURBE and the family co-operatives, which increased the number of subsidies allocated by 41% and 70% respectively in relation to the year 2000.

Likewise, in order to facilitate access to housing for low-income families, Fondo Nacional de Garantías (SNG) on 13 September 2001 approved a partial guarantee for independent workers applying for social interest-housing loans at a mortgage bank.

Finally, in 2001, Decree 951 regulated a **Special Housing Policy for the Displaced by Violence**, which was allocated $5,000 million for the allocation of 786 subsidies, to complement the 334 subsidies previously allocated by INURBE with the Family Housing Subsidy Fund.

With regard to **education**, the Government has encouraged and strengthened policies to increase quality coverage through programs and projects for: a) rural education; b) education reorganisation; and c) demand subsidies for primary and secondary education. In the case of rural education the principal objective has been to create the conditions of relevance and quality in rural areas. Other programs are addressed to urban and rural areas alike, and their final purpose is to take advantage of existing resources in the sector, increasing their efficiency and using other strategies for the provision of the Education Service.

In effect, during the period covered by this report, sustained efforts continue, to cover the demands for education services. Coverage of matriculations in pre-school, basic primary, basic secondary and intermediate education were held at 78.3% between 1999 and 2001, and gross coverage basic open education "primary and secondary" was held at 97%.

If a comparison is made of gross cover with regard to net coverage for the 3 levels mentioned above, there is a difference of only 6% in the same period and this shows the value of educational strategy currently being developed, such as flexibility and the diversity of teaching models and automatic promotion, amongst others.

It should be noted that there has been an increase in the **net rate of education by levels**, to the extent that in the primary level the rate rose from 83.1% in 1997 to 83.6% in 2000, and in secondary education from 62.1% to 62.7% in the same period (DNP-DDS-GCV) and that there has been an increase in the average years of education for a population of 15 and over, from 6.9 years in 1997 to 7.3 years in 2000 (DNP- DDS-GCV).

Indeed, in the framework of the "Strategic Education Plan 2000 - 2002: A Goal to Lead for All", more specifically in Strategies 6: Program for the Reorganisation of the Official Education Sector, begun in 2001, which has been possible to increase the number of places in first year of implementation by 240,000, due to an efficient concertation between the regional entities and central government. This has allowed processes such as merger and re-conversion of educational establishments to take place, with reorganisation and strengthening of the initial mandatory grade "grade zero" taking advantage of technological media and the organisation of pupils and alternative programs for scattered populations.

At the same time, during this year 330,000 children and youths, and 85,000 adults in rural areas, have guaranteed access to education due to the Rural Education Project which currently attends to 94 municipalities. It should be mentioned that 176,000 of the 330,000 students mentioned are filling new places.

Despite the efforts made, it must be admitted that the conditions prevailing in this country have not been favourable to the results expected; but it is hoped that with the implementation of Decree 230 of 11 February 2002 "regulating matters of curriculum, evaluation and promotion of pupils, and the evaluation of institutions" substantially positive results may be achieved in terms of efficiency of the education system by the end of this school year, and much more visible results at the end of the second year when the pupils of the various types of school have completed an academic year with these new provisions in force. It should be noted that one undeniable result in the mid-term will relate to lower levels of desertion, repetition, and removal, and therefore of illiteracy.

At all events, with regard to illiteracy substantial progress has been made, since the **illiteracy rate** among the population of 15 or more has fallen from 8.6% in 1997 to 8.5% in 1999 and 8.0% in 2000 (DNP-DDS-GCV).

Nonetheless, and with the intention of continuing in the fight against illiteracy, through an agreement signed between the Ministry of Education and the Foundation CORPOEDUCACION, attention is being given to the population removed from the education system in 16 departments and in Bogota, with the "Learning Acceleration" program, with a current coverage of 2,450 pupils, a strategy which also combats an increase in illiteracy levels.

Further, Law 115/94 incorporated adult education as an integral part of the Public Education Service, defining the objectives, types of programs and duties of the State, in terms of facilitating and promoting partially present or distance learning modes. The implementation of this national policy has been developed in regional education plans, through flexible time-tables, educational methods and materials, and stimulation of interest in access and permanence of a largely marginal population.

In addition to the above, and as already mentioned, the Ministry of Education is currently developing a rural education program which employs strategies to provide attention to potentially illiterate population such as children removed from the system, through the Accelerated Learning Program. It also supports alternative programs for the expansion of

coverage and improvement of educational quality with alternatives such as the CAFAM Adult Education Program, the Tutorial Learning System (SAT), and the Rural Education Service, SER amongst others.

The Ministry of Education has been allocating funds to reward full-time teachers who also work in literacy campaigns, distributed as a budget item, which is exclusively managed by Departmental Administrations. The value of the bonus is set by the Annual Salary Decree. Further, with regard to the application of the principle of equality, particularly in gender matters, the Ministry of Education has prepared a study showing that there is no gender difference in the provision of education. The results of the study are as follows:

2000		1999		1998	
MATRICULATIONS WOMEN	4,926,261	MATRICULATIONS WOMEN	4,902,117	MATRICULATIONS WOMEN	4,815,139
Population age 3-16	6,187,360	Population age 3-16	6,134,983	Population age 3-16	6,073,222
Gross Coverage	79.6%	Gross Coverage	79.9%	Gross Coverage	79.3%
MATRICULATIONS MALES	4,940,518	MATRICULATIONS MALES	4,888,408	MATRICULATIONS MALES	4,788,375
Population age 3-16	6,421,939	Population age 3-16	6,373,593	Population age 3-16	6,311,702
Gross Coverage	76.9%	Gross Coverage	76.7%	Gross Coverage	75.9%

Source: Ministry of Education - Planning Office

With regard to human rights instruction at all educational levels, the Ministry of Education is engaged in formulating an education policy which will guide the actions of the Sector in matters of human rights, coexistence, peace, the solution of conflict, civic education and democracy from a point of view of the recognition of human rights in personal relationships and in daily life, more than as the object of denunciations. The intention is to encourage learning and identification of the existence of these rights as a building-block of society, underlining the establishment of all kinds of relationships with others, and with the environment; in other words, a true notion of their essence as a regulator of social relations.

The policy intends to address topics, including that of human rights, in several ways:

- A dimension of the curriculum, in which reflection on social relations acts as a framework for the recognition of the content of Human Rights and International Humanitarian Law. This aspect is being worked on in harmony with the new proposal for curriculum guidelines now being prepared by the Ministry.

- A dimension which concerns the institutional relationships of primary and secondary schools with the evaluation of opportunities for participation and democracy created by the law, permitting the exercise of respect, argument and participation by members of the educational community. This exists because a need has been identified to work in the daily exercise of esteem of and respect for others, in order to change daily behaviour patterns which tend to oppose the intentions of curriculum content.

- A dimension which concerns the relationship of the educational institution with the community, such that the primary and secondary schools will have the tools through the strategic recognition and comprehension of their environment, to form alliances and establish ties which will strengthen them, and which will enable them to overcome isolation. The strengthening of relationships with the community will allow joint approaches to social problems which affect children such as violence in the family and child labour. Thus, opportunities can be generated for reflection on human rights.

The approaches presented above are intended to encourage transformation in the type of relationship established within the schools, such that an improvement in the quality of relationships and the daily exercise of respect for others will be the framework of action for a broader understanding of human rights.

In addition to the preparation of education policy, the Peace and Coexistence Office of the Ministry, working with the coexistence component of the Rural Sector Education Project PER is compiling information on relevant experiences in issues such as peace, coexistence, the solution of conflict and human rights, in the primary and secondary schools across the country.

The purpose of this search for experiences is to discover initiatives and actions which are being taken, in order to study them and to guide the preparation of education policy so that policy will be consistent with the realities of the country, and will be able to provide proper orientation for processes, and not to impose a pre-determined forms of action.

In addition to its news in the preparation of educational policy, this search for experiences will be useful for publication of a document which will recognise the most significant of them, and act as a tool for motivating new initiatives and replicate experiences in peace and coexistence in educational institutions and municipalities across the country, with a particular emphasis on those which are focused by the rural education policy. The first version of this document will be available to the public shortly.

In parallel to the preparation of the Catalogue, a Portfolio of Educational Offer will also be published with regard to human rights, solution of conflict and civic and democratic education. The Portfolio is a document which contains structured projects or programs which belong to institutions and entities such as NGOs and universities, and official agencies of various kinds (at national, departmental or municipal level) on matters such as human rights, the solution of conflict or civic and democratic education. These projects or programs will meet the criteria set by the Ministry to be included in the publication, such that this could be another tool to the coexistence component of the Rural Education Plan PER.

Likewise, this process will be enriched with the support of materials produced in this context, such as the forthcoming publication of the Constitution for the Young, produced by the Ministry of Education with the co-operation of OEI. The book contains school experiences, stories of daily life, events in universal and national history, literary texts, songs, poems, and ideas from great European and Latin- American thinkers, so that readers may construct their own vision of the Colombian Constitution. This way of discovering knowledge of the Law makes it possible for learning to cease to be a meaningless exercise, and to become a highly meaningful task.

Finally, we should mention that other results of the application of economic and social policy have been an increase in the life expectancy at birth from 70.6 years in 1997 to 71.5 years in 2000 (DNP-DDS-GCV) and an increase in the number of affiliations to the Subsidised Health Regime from 7,026,690 in 1997 to 9,509,729 in 2000, this last figure equivalent to 60% of the poor population as measured by unsatisfied basic needs (Ministry of Health); an increase in vaccination coverage with all biological vaccines compared to 1999: in that year coverage was 86.7% for polio, 82.6% for DPT, 95.6% for BCG, 82.3% for Hepatitis B and 67.8% for HiB, and 83.7% in Triple-Virus vaccination; there has also been an increase in public services coverage; coverage in water supplies having increased from 83.3% in 1997 to 85.7% in 2000; in sewerage, from 70% in 1997 to 73.3% in 2000, and electricity supplies from 93% in 1997 to 95.2% in 2000 (DNP-DDS-GCV).

Finally, in the area of **health**, the Government notices from a careful reading of the report, that mention has been made of the situation of the medical missions in the country, which concentrates basically on the transport of war wounded. In the great majority of the areas of armed conflict medical and paramedical personnel have been impeded from entering, which prevents the provision of services and attention to a population which is already vulnerable, specially in regular programs for vaccination for the child population; and in other places, biological vaccines have not been able to be delivered for the program, as one of the many examples of problems arising in this country. Content has been made with the armed groups through the International Red Cross, and results have been varied across the country; at the same time, the Army has been providing support and accompaniment to medical missions when required.

Account has not been taken either of the cost of the war, of forced displacement, of mobilisation, and the pressure on health services which have not yet been calculated and have forced a reconstruction of the processes of securing and providing services.

f. Individual cases cited in the Report

According to the Report *"on 1 October 2001 in La Guajira, a group of soldiers from the Majayura Base fired at a house in which there were 13 ethnic Wayuus. Two men were killed, and a mother with a 6-month-old baby were wounded"*.

According to the report from the Commander of the First Division, the events occurred in compliance with operations Order 088 "ORION" of 30 September 2001. C Company with Condor 1 Platoon arrived at a place known as El Plan, in the jurisdiction of the Esperanza District in the municipality of Maicao, and in the face of the presence of individuals who were hiding or camping in the bush, and who shot at the platoon, producing a cross-fire; the result was

the death of PFC BLANCO PADILLA JAIR DE JESUS and two civilians, and IDELFONSO GARCIA TEHERAN and ANSELMO SEGUNDO LOPEZ-CALDERON were captured, and left at the disposal of the local Prosecution Service. This shows that there was a process of an outlawed armed group, and not simply a group of indigenous people, as the Report suggests.

After the exchange of shots, the following equipment was confiscated: one AK 47 rifle, 7.65 mm Number GT 1732K, four (4) magazines for same, one hundred and ninety (190) 7,62 mm 39.51 Russian made cartridges, one submachine gun, UZI 9 mm, unnumbered, one magazine for the same, and six (6) cartridges; one CZ pistol, 7.65 mm, unnumbered, two magazines for the same and twenty seven (27) 7.5 mm cartridges, one (1) 16-gauge shotgun, unnumbered, sixteen (16) 12 mm cartridges, four (4) .3038 long cartridges, sixteen (16) 5-gauge 56 mm cartridges, one (1) carbine magazine, .30 gauge, six (6) Motorola cellular phones, nine (9) batteries for the same, with five (5) chargers, and clothing reserved for the exclusive use of the Armed Forces.

The investigation of this event is being conducted by the ordinary courts, and today no member of the Army has been implicated.

- *"At present, there is a criminal investigation into the death of Lt. JORGE RODRIGUEZ-CASTILLO, whose corpse showed severe signs of maltreatment. This officer died in mysterious circumstances while on a course in Tolemaida".*

  For these events, Criminal Instruction Court 13 is engaged in the investigation, and an order has been given for the corpse to be exhumed. The results show that the Junior Lieutenant died from heat-stroke, leading to dehydration. The expert report show that the corpse has no signs of maltreatment or torture.

  An investigation is being conducted by the provincial Procurator's Office in Girardot, and is currently in the instruction stage.

- *"On 19 September 2001 an Army Patrol shot at Mr. EDWARD ARIZA-CASALLA, age 57, in the rural area of San Jose de Guaviare."*

  According to information supplied by Commander of the Paris Battalion, these events occurred at 4 o'clock in the morning, at Finca El Porvenir, Vereda Buenos Aires in the municipality of San Jose de Guaviare, when a patrol which had been operating for the past week against FARC Squad Seven, which was suspected of committing extortion and making threats against the civil population. When the patrol passed a bridge, it was indiscriminately attacked, and in response a soldier reacted to the aggression and produced the death of this gentleman, who happened to be close to the place in which the shooting begun.

  The criminal investigation, filed as number 442, is being conducted by Criminal Instruction Court 60, and is currently at the instruction stage and pending receipt of a ballistics report on the part of the Forensic Medicine Service.

  For this same event, a preliminary disciplinary inquiry No. 17 was opened, and it was decided on 28 November 2001, to file the case for lack of merit to open a formal investigation.

- The Report refers imprecisely to the disappearance in Sincelejo of two investigators of the massacre of Chengue and Ovejas and the death of the Prosecutor assigned to that investigation, in an attempt to indicate indirectly that members of the Forces of Law and Order were responsible. The Prosecution Service and the Procurator's Office are responsible for the investigations to establish the intellectual and material authors of these crimes, which without doubt attack the image of Colombia in the area of Human Rights and International Humanitarian Law.

  The Human Rights Office should rely on the actions of the investigating agencies, without prejudging or providing opinions which, without knowledge of evidential material, are merely advanced speculation against institutions of the State.

- With regard to the case of Santo Domingo (Arauca) quoted in the report, it is stated that this case has gone unpunished; in this regard, the Human Rights Office should explain that this has been an object of constant concern and diligence on the part of the competent authorities.

  In criminal matters, the Commander in Chief of the Armed Forces, in exercise of his legal powers, issued Resolution 38 of 21 November 2000, in which a Special Military Criminal Instruction Unit was set up, composed of Criminal Instruction Judge 121, (the director of this unit), Judge 122 and Judge 125, who are responsible for completing the investigation. At present the process continues at the instruction stage for murder and for culpable homicide and personal injury. Preventive detention was ordered against the two officers and the junior officer implicated, bail being allowed. At the same time, the Special Prosecutor from the Human Rights Unit of the Prosecution Service proposed a positive collision of competence in this process, and this was contested by the Judge of the First Instance (122) and the matter is at present being settled by the Superior Council of the Judicature.

  In disciplinary matters, the investigation is being managed by the Office of the Procurator (Human Rights Advisory Group), and the file has been entered as Number 155-45564-2000. With regard to the disciplinary inquiry in the Air Force, two officers and a junior officer were implicated and were indicted last year, a defence has been entered, and the case is at the evidence-gathering stage.

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COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Agenda items 9, 10, 11 and 14

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

CIVIL AND POLITICAL RIGHTS

SPECIFIC GROUPS AND INDIVIDUALS

Letter dated 10 April 2002 from the Permanent Representative of China to the United Nations Office at Geneva addressed to the Chairperson of the fifty-eighth session of the Commission on Human Rights

I have the honour to transmit herewith the Position Paper of the Chinese Government on the Issue of Tibet (see annex).

I would be grateful if you could have this letter and its annex* circulated as an official document under items 9, 10, 11 and 14 of the fifty-eighth session of the Commission on Human Rights.

(Signed): SHA Zukang
Ambassador
Permanent Representative

* Reproduced as received in the languages of submission, in Chinese and English only.

Position Paper of the Chinese Government on the Issue of Tibet

Tibet is part of China since ancient times and it was officially incorporated into China during the reign of Yuan dynasty in the early 13th century. Since then, Tibet has been an administrative region directly under the jurisdiction of the Central Government of China. Tibet has never been an independent state and no government in the world has ever recognized it as a state. The People's Republic of China was founded in 1949. In January 1951, agreement was reached by the Central Government and the local authorities of Tibet, which stipulated national regional autonomy would be instituted in Tibet, and that the political system in Tibet as well as the established status, functions and powers of the Dalai Lama and the Bainqen Erdeni should remain unchanged. It also emphasized that the religious beliefs, customs and habits of the Tibetan people must be respected, and the spoken and written language and school education of the Tibetan ethnic group should be developed step by step along with the development of agriculture, livestock raising, industry and commerce and the improvement of the people's living standard. The agreement won the approval and support of the people from all walks of life in Tibet.

In the old Tibet administered by the Dalai Lama, a system of theocracy was in place characterized by the dictatorship of upper-class monk. .nd nobles. At that time, 95% of the Tibetans were serfs and slaves who had no personal freedom at all. Their owners could trade and transfer them, present them as gifts and exchange them, and could arbitrarily carry out such savage and cruel punishments upon them in the owners' private penitentiaries as gouging out the eyes, cutting off ears, hands and feet, pulling off tendons and drowning. Inhumane examples like these could be seen everywhere in Tibet at that time and the feudal

serfdom in Tibet was darker and crueler than that of the Middle Ages in Europe. It is fair to say that the old Tibet witnessed the most serious human rights violations in the twentieth century. To break to chains of slavery, the immense majority of Tibetan serfs earnestly called for democratic reform. However, some members of the Tibetan ruling class dreamed of preserving the serfdom forever so as to maintain their own vested interests and were against any reform. To that end, they plotted armed rebellion in certain areas in a bid to split the motherland. In March 1959, a handful of Tibetan serf-owners, colluding with foreign forces, mounted a general armed rebellion and advocated flagrantly the separatist slogan of "Tibetan independence". With the support and assistance of the broad Buddhist monks and laymen, the rebellion was swiftly stamped out. The Dalai Lama fled the country after the failure of his conspiracy and has since got on the road of confrontation with the Central Government and Tibetan compatriots.

After the Dalai Lama fled in 1959, democratic reform was carried out at the strong request of the broad masses of the people in Tibet and the extremely barbarous serfdom system was abolished. In 1965, the ethic regional autonomy was instituted in Tibet to make it one of the five national autonomous regions at the provincial level in China. The once serfs and slaves under the Dalai's rule became masters of their own destiny. With the help of the Central Government and other regions throughout the country, economy in Tibet boomed and the living standard there improved continuously. At the same time, the ethnic culture, education and public health causes have scored tremendous progresses, and freedom of religious belief and all the fundamental rights and freedoms have been guaranteed to the full. During the 200 years before 1959, the population in Tibet had been around 1 million. By the end of 2000, there were 2.6163 million people in Tibet, of whom 2.4112 million were Tibetans, representing an increase of almost 1.5 times in the 40 years. The average life expectancy in Tibet has risen from 36 years in 1959 to 67 years at present. In the old Tibet, serfs and slaves, accounting for 95% of the population, were illiterates or semi-illiterates and the few schools available were only for the children of noble origin. In contrast,

presently Tibet has established an integrated education system covering from pre-school to higher and professional education. More than 4,300 schools of different categories have been set up. The government has conducted systematic survey, collection, collation, study and publication of the Tibetan cultural heritage and folk arts, and stipulated clearly the learning and use of the Tibetan language and bilingual (Tibetan and Chinese) education. The distinctive Tibetan culture is being further popularized. The Central Government has channeled special appropriations to the maintenance of more than 1,700 monasteries and religious sites including the Potala Palace so as to enable the Tibetans to fully enjoy the freedom of engaging in various religious activities. At present, fresh achievements are being made in the reform and opening-up, economic restructuring and all other social drives in the Tibetan Autonomous Region, which is featured by political stability, economy growth, social progress, ethnic harmony and people living and working in peace and contentment. These constitute sea changes for Tibet. In a short span of only 40 years, Tibet has gone through a social and economic transformation that would normally take centuries for mankind to accomplish. This makes Tibet a region that enjoys the fastest development and biggest improvement in social undertakings and human rights in the world.

As other places in China, the human rights cause in Tibet is developing on a sound track, the Tibetans are satisfied with the development in Tibet. At the same time, the Dalai clique, in order to split the country, deliberately distorts the human rights situation in Tibet to mislead the public opinion and swindle sympathy out of others. The Chinese Government welcomes all unbiased personnel to go to Tibet and see for themselves what is going on in Tibet and draw their objective conclusions.

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COMMISSION ON HUMAN RIGHTS
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Agenda item 9

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Letter dated 12 April 2002 from the head of the delegation of Armenia to the fifty-eighth session of the Commission on Human Rights addressed to the Chairperson of the Commission

I would like to refer to the document E/CN.4/2002/156 of 25 March 2002 containing a statement of the Parliament of Azerbaijan.

This statement, circulated under agenda item 9 of the present session of the Commission on Human Rights, amounts to highly irresponsible and unacceptable attempts at the State level to politicize the work of the Commission.

In his letter of 2 April 2002, the Permanent Representative of the Republic of Armenia to the United Nations Office at Geneva drew the attention of the Commission to the destructive nature of the State propaganda machinery of Azerbaijan aimed at jeopardizing the genuine mandate of the Commission.

By spreading totally false information and scenarios authorized by governmental agencies and ministries and this time by its legislators, Azerbaijan hinders the proceedings of the annual session of the Commission, demonstrating pitiful efforts to distort the historical progression of events in the region.

This standard product of Azerbaijani propaganda, unmatched in its scope and violence, reflects the attempt of a massive attack to discredit Armenia and Nagorno-Karabakh during the Commission's present session. Its cynicism, frightening in its simplicity, is designed to mislead the international community, by means of a senseless provocation.

My delegation considers any comments on the absurd content of the statement of the Azerbaijani Parliament meaningless and counterproductive. It advocates a constructive dialogue with a view to strengthening and implementing the human rights mechanism of the United Nations.

I would be grateful if you could circulate this letter as an official document of the fifty-eighth session of the Commission on Human Rights under agenda item 9.

(Signed) Karen A. NAZARIAN
Head of delegation